

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
by KWAME RAOUL,)	
Attorney General of the State of Illinois,)	
)	
Complainant,)	
)	
v.)	PCB No. 22-
)	(Enforcement – Air)
MIDWAY LAND MANAGEMENT, INC.,)	
an Illinois corporation,)	
)	
Respondent.)	

NOTICE OF FILING

To: See attached service list (VIA ELECTRONIC FILING)

PLEASE TAKE NOTICE that today, December 30, 2021, I filed with the Clerk of the Illinois Pollution Control Board by electronic filing the following Complaint, a copy of which is attached hereto and are hereby served upon you. You may be required to answer the charges of the Complaint at a hearing before the Board, at a date set by the Board.

Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the clerk's office, or an attorney.

NOTIFICATION - YOU ARE HEREBY NOTIFIED that financing may be available through the Illinois Environmental Facilities Financing Act [20 ILCS 3515/1, et seq.] to correct the alleged violations

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS
KWAME RAOUL
Attorney General of the State of Illinois

By: /s/ Audrey Avila
AUDREY AVILA
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 West Washington Street, Suite 1800
Chicago, Illinois 60602
(773) 590-7046
Primary email: Audrey.Avila@ilag.gov
Secondary: Maria.Cacaccio@ilag.gov

SERVICE LIST

For the Respondent:

Mosa Elmosa
Elmosa & Associates
11140 S. Harlem Ave
Worth, IL 60482
mosa@elmosalaw.com
tala@elmosalaw.com

Rehan Junejo & Noman Junejo
President & Registered Agent
Midway Land Management, Inc.
4629 South Cicero Avenue
Chicago, Illinois 60632
rjunejo1@gmail.com

CERTIFICATE OF SERVICE

I, AUDREY AVILA, an Assistant Attorney General, certify that today, December 30, 2021, I caused to be served by U.S. Certified Mail, Return Receipt Requested, the foregoing Notice of Filing and Complaint to the parties named on the attached Service List, by depositing the same in postage prepaid envelopes with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois 60601.

BY: /s/ Audrey Avila
AUDREY AVILA
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 West Washington Street, Suite 1800
Chicago, Illinois 60602
(773) 590-7046
Primary email: Audrey.Avila@ilag.gov
Secondary: Maria.Cacaccio@ilag.gov

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
by KWAME RAOUL, Attorney)	
General of the State of Illinois,)	
)	
Complainant,)	
)	
v.)	PCB No. 22-
)	(Enforcement - Air)
MIDWAY LAND MANAGEMENT, INC.,)	
an Illinois corporation,)	
)	
)	
Respondent.)	

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois (“Complainant”), complains of Respondent, MIDWAY LAND MANAGEMENT, INC., an Illinois corporation, as follows:

COUNT I

FAILURE TO TIMELY DECOMMISSION VAPOR COLLECTION AND CONTROL SYSTEM AND SUBMIT REPORTS

1. This Complaint is brought on behalf of the People of the State of Illinois by Kwame Raoul, Attorney General of the State of Illinois, on his own motion and at the request of the Illinois Environmental Protection Agency (“Illinois EPA”), against MIDWAY LAND MANAGEMENT, INC., an Illinois corporation (“Respondent” or “Midway”), pursuant to Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2020).

2. The Illinois EPA is an administrative agency of the State of Illinois created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2020), and is charged, *inter alia*, with the duty of enforcing the Act.

3. At all times relevant to this Complaint, Midway has been and is an Illinois corporation not in good standing with the Illinois Secretary of State.

4. At all times relevant to this Complaint, Midway owned and operated, and continues to own and operate a gasoline dispensing facility located at 4629 South Cicero Avenue, Chicago, Cook County, Illinois 60632 (“Facility”).

5. Midway owns and operates gasoline dispensing pumps at the Facility that emit volatile organic compounds (“VOCs”) into the environment.

6. Section 9(a) of the Act, 415 ILCS 5/9(a) (2020), provides as follows:

No person shall:

(a) Cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act.

7. Section 3.315 of the Act, 415 ILCS 5/3.315 (2020), provides the following definition:

“Person” is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

8. Midway, an Illinois corporation, is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2020).

9. Section 3.165 of the Act, 415 ILCS 5/3.165 (2020), provides the following definition:

“Contaminant” is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

10. VOCs are “contaminants” as that term is defined by Section 3.165 of the Act, 415 ILCS 5/3.165 (2020).

11. Section 218.586(i)(1)(B) of the Illinois Pollution Control Board (“Board”) Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(1)(B), provides as follows:

No later than December 31, 2016, an owner or operator of a gasoline dispensing operation shall complete the decommissioning of all vapor collection and control systems in accordance with all of the provisions specified in subsection (i)(2).

12. Section 218.586(a)(7) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(a)(7), provides the following definition:

“Gasoline dispensing operation” means any operation where motor vehicle fuel is dispensed into motor vehicle fuel tanks or portable containers from a storage tank with a capacity of 2176 liters (575 gallons) or more.

13. Midway is a “gasoline dispensing operation,” as that term is defined in Section 218.586(a)(7) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(a)(7).

14. Section 218.586(a)(11) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(a)(11), provides the following definition:

“Owner” or “operator” means any person who owns, leases, operates, manages, supervises or controls (directly or indirectly) a gasoline dispensing operation.

15. Midway is an “owner” or “operator,” as that term is defined in Section 218.586(a)(11) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(a)(11).

16. Section 218.586(i)(2)(C) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(2)(C), provides as follows:

The owner or operator of a gasoline dispensing operation and the contractors that performed the decommissioning shall complete and sign a decommissioning checklist and certification, provided by the Agency, documenting the decommissioning procedures performed. Within 30 days after completion of the decommissioning procedures specified by subsection (i)(2)(B), the owner or operator shall provide the completed checklist and certification and the test results to the Agency.

17. By December 31, 2016, Midway was required to decommission its vapor collection and control system in accordance with Section 218.586(i)(1)(B) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(1)(B), and therefore was required to submit a decommissioning checklist, certification, and test results within 30 days after completion of decommissioning procedures, pursuant to Section 218.586(i)(2)(C) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(2)(C).

18. On November 18, 2021, Midway submitted a decommissioning checklist, certification, and test results to the Illinois EPA, approximately four years and nine months late

19. By failing to timely submit a decommissioning checklist, certification, and test results to the Illinois EPA, Midway violated Section 218.586(i)(2)(C) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(2)(C).

20. According to the decommissioning checklist submitted to the Illinois EPA, Midway decommissioned its vapor collection and control system on November 5, 2021, approximately four years and ten months late.

21. By violating Sections 218.586(i)(1)(B) and 218.586(i)(2)(C) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(1)(B) and 218.586(i)(2)(C), Midway caused or threatened or allowed the discharge or emission of VOCs into the environment so as to violate regulations adopted by the Board, and has thereby violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2020).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, MIDWAY LAND MANAGEMENT, INC., an Illinois Corporation, with respect to Count I:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;

2. Finding that Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2020), and Sections 218.586(i)(1)(B) and 218.586(i)(2)(C) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(1)(B) and 218.586(i)(2)(C);

3. Ordering Respondent to cease and desist from any future violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2020), and Sections 218.586(i)(1)(B) and 218.586(i)(2)(C) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(1)(B) and 218.586(i)(2)(C);

4. Assessing against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent regulations, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

5. Taxing all costs in this action, including, but not limited to, attorney, expert witness, and consultant fees against Respondent; and
6. Granting such other relief as the Board deems appropriate and just.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS
by KWAME RAOUL, Attorney General
of the State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

BY: */s/ Stephen J. Sylvester*
STEPHEN J. SYLVESTER, Chief
Environmental Bureau
Assistant Attorney General

Of Counsel:

AUDREY AVILA
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602
(773) 590-7046
Primary email: Audrey.Avila@ilag.gov
Secondary email: Maria.Cacaccio@ilag.gov