

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. 2023-
)	(Enforcement-Land)
ROBERT WIETHOLDER, an individual,)	
DESMOND JARVIS, an individual, and)	
BOB JARVIS, an individual)	
)	
Respondents.)	

NOTICE OF FILING

TO: See attached service list (VIA ELECTRONIC FILING)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the following Complaint, copy which is attached and 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/ Bridget I. Flynn
Bridget I. Flynn
Assistant Attorney General
Environmental Bureau
ARDC # 6332314
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Date: June 29, 2023

Service List

For the Respondents

Robert Wietholder
326 W. Mill Street
Mendon, IL 62351

Desmond Davis
205 S. Main Street
Coatsburg, IL 62355

Bob Jarvis
222 N. Chestnut Street
Mendon, IL 62351

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BOB JARVIS, an individual,)	
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COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, complains of Respondents, ROBERT WIETHOLDER, an individual, DESMOND JARVIS, an individual, and BOB JARVIS, an individual, as follows:

COUNT I
OPEN DUMPING OF WASTE

1. This Count 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”), after providing Respondents with notice and the opportunity for a meeting with the Illinois EPA, pursuant to Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2022).

2. Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly created in Section 4 of the Act, 415 ILCS 5/4 (2022), and charged, *inter alia*, with the duty of enforcing the Act.

3. The Illinois Pollution Control Board (“Board”) is an independent board created by the General Assembly in Section 5 of the Act, 415 ILCS 5/5 (2022), and charged, *inter alia*, with the duty of determining standards and adopting regulations.

4. Respondents, ROBERT WIETHOLDER, DESMOND JARVIS, and BOB JARVIS, (“Respondents”), are individuals residing in Illinois.

5. Respondent Robert Wietholder is the owner of a residential property at 326 W. Mill Street, Mendon, Adams County, Illinois, also known as assessor parcel no. 07-0-0694-000-00 (the “Site”).

6. At all times relevant to this Complaint, Respondent Desmond Jarvis rented the Site from Respondent Robert Wietholder and operated a waste collection business there.

7. At times best known to Respondents, Respondent Bob Jarvis assisted Respondent Desmond Jarvis in operating the waste collection business.

8. On September 9, 2020, Illinois EPA inspected the Site and observed approximately forty (40) cubic yards of open dumped waste and approximately twelve (12) used tires. The inspectors observed, among other waste: an open burn area in the middle of the yard east of the house with a large metal wheel rim that contained the remnants of burned waste; similar remnants on the charred soil around the rim; an additional burn barrel on the east side of the house; two additional burn barrels on the east side of the garage; and incinerated household waste in all of the burn barrels. The inspectors also observed the following waste items between and in front of two garages: mattresses; furniture; scrap metal; and other miscellaneous waste.

9. During Illinois EPA’s September 9, 2020 inspection of the Site, Tina Wietholder told inspectors that Respondent Desmond Jarvis, her son, had been collecting waste from homes in neighboring communities and bringing those waste items to the Site to strip them to obtain scrap

metal to recycle. Tina Wietholder also told inspectors during the initial inspection that she would instruct Respondent Desmond Jarvis to clean up the Site. Tina Wietholder asked the Illinois EPA inspectors to send her copies of all letters that they sent to Respondent Desmond Jarvis.

10. On September 15 and 17, 2020, Tina Wietholder sent to Illinois EPA the following documents: three receipts from transfer stations dated September 10, 2020, September 11, 2020, and September 14, 2020; a receipt from a truck service dated September 10, 2020; a receipt from a metal recycling company dated September 14, 2020; a handwritten, undated receipt of 10 gallons of used oil for recycling; a photo of a log with Respondent Robert Wietholder's name on it on the same line as the date September 20, 2020 and "5 gallon" written in the column titled "# of gallon"; and photos of the site which showed, among other items, empty burn barrels, a metal rim on its side, and several mattresses on a vehicle.

11. On March 31, 2021, Illinois EPA re-inspected the Site. The inspectors observed new accumulations of waste, which appeared to have been generated off-site. That accumulated waste included, among other things: a mattress, old barn wood, two tires, aerosol cans, three televisions, a computer monitor, an air conditioning unit, general construction and demolition debris, paint cans, a VCR, lawn mower parts, and miscellaneous plastic and metal. The inspectors also found ground which again was charred in the main burn area, and charred remnants of general construction and demolition debris, plastic, metal, cans, mattress covers, fabric, and screws.

12. On August 25, 2022, Illinois EPA re-inspected the Site. The inspectors observed that someone had removed the open burn pile and general construction and demolition debris. The inspectors observed that it appeared that nobody was open dumping at the Site.

13. Section 21(a) of the Act, 415 ILCS 5/21(a) (2022), provides as follows:

No person shall:

(a) Cause or allow the open dumping of any waste

14. Section 3.315 of the Act, 415 ILCS 5/3.315 (2022), provides as follows:

“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.

15. Respondents are individuals and, therefore, each is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2022).

16. Section 3.535 of the Act, 415 ILCS 5/3.535 (2022), provides as follows:

“Waste” means any garbage . . . or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities...

17. Section 3.385 of the Act, 415 ILCS 5/3.385 (2022) provides as follows:

“Refuse” means waste.

18. The mattresses, burn barrels, furniture, scrap metal, and other miscellaneous waste at the Site are “discarded material” and therefore “waste” as defined in Section 3.535 of the Act, 415 ILCS 5/3.535 (2022), and “refuse” as that term is defined in Section 3.385 of the Act, 415 ILCS 5/3.385 (2022).

19. Section 3.305 of the Act, 415 ILCS 5/3.305 (2022), provides as follows:

“Open dumping” means the consolidation of refuse from one or more sources at a disposal site that does not fulfill the requirements of a sanitary landfill.

20. Section 3.460 of the Act, 415 ILCS 5/3.460 (2022), provides as follows:

“Site” means any location, place, tract of land, and facilities, including but not limited to buildings, and improvements used for purposes subject to regulation or control by this Act or regulations thereunder.

21. The Site is a “site” as that term is defined in Section 3.460 of the Act, 415 ILCS 5/3.460 (2022).

22. Section 3.185 of the Act, 415 ILCS 5/3.185 (2022), provides as follows:

“Disposal” means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any waste or hazardous waste into or on any land or water or into any well so that such waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

23. Waste was discharged, deposited, dumped, spilled, leaked, and/or placed on land at the Site in such a manner that waste, or constituents thereof, may enter the environment, be emitted into the air, or be discharged into waters or ground waters. Therefore, “disposal” occurred on the Site, as that term is defined in Section 3.185 of the Act, 415 ILCS 5/3.185 (2022).

24. The Site is a “site” on which Respondents have caused or allowed the “disposal” of waste as those terms are defined in Sections 3.185 and 3.460 of the Act, 415 ILCS 5/3.185 and 5/3.460 (2022), making the Site a “disposal site.”

25. Section 3.445 of the Act, 415 ILCS 5/3.445 (2022), provides, in pertinent part, as follows:

“Sanitary landfill” means a facility permitted by the Agency for the disposal of waste on land meeting the requirements of the Resource Conservation and Recovery Act, and regulations thereunder, and without creating nuisances or hazards to public health or safety, by containing the refuse to the smallest practical volume and covering it with a layer of earth at the conclusion of each day’s operation, or by such other methods and intervals as the Board may provide by regulation.

26. Section 3.105 of the Act, 415 ILCS 5/3.105 (2022), provides as follows:

“Agency” is the Environmental Protection Agency established by this Act.

27. At all times relevant to this Complaint, Illinois EPA had not permitted the Site for the disposal of wastes on land, and therefore, the Site was not a “sanitary landfill,” as that term is defined in Section 3.445 of the Act, 415 ILCS 5/3.445 (2022).

28. Beginning prior to September 9, 2020, and at times better known to Respondents, Respondents caused or allowed the consolidation of refuse at a disposal site not meeting the requirements of a sanitary landfill, and therefore caused or allowed open dumping of waste at the Site.

29. By causing or allowing the open dumping of waste at the Site, Respondents have violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2022).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondents, ROBERT WIETHOLDER, DESMOND JARVIS, and BOB JARVIS, on Count I, as follows:

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

B. Finding that Respondents have violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2022);

C. Ordering Respondents to cease and desist from further violations of Section 21(a) of the Act, 415 ILCS 5/21(a) (2022);

D. Assessing against each Respondent a civil penalty of up to \$50,000.00 for each violation of Section 21(a) of the Act, 415 ILCS 5/21(a) (2022) and an additional civil penalty of up to \$10,000.00 for each day such violation continued pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2022);

E. Ordering the Respondents to pay all costs, including expert witness, consultant, and attorney fees, expended by the State in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022); and

F. Ordering such other and further relief as the Board deems appropriate and just.

COUNT II
CONDUCTING A WASTE-DISPOSAL OPERATION WITHOUT A PERMIT

1-29. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 29 of Count I as paragraphs 1 through 29 of this Count II.

30. Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2022), provides, in pertinent part, as follows:

No person shall:

(d) Conduct any waste-storage, waste-treatment, or waste-disposal operation:

(1) without a permit granted by the Agency or in violation of any conditions imposed by such permit .

..

31. Illinois EPA has never granted Respondents a permit to conduct a waste-disposal, waste-storage, and/or waste-treatment operation at the Site.

32. Beginning prior to September 9, 2020, and at times better known to Respondents, Respondents conducted a waste-disposal, waste-storage, and/or waste-treatment operation at the Site.

33. By conducting a waste-disposal, waste-storage, and/or waste-treatment operation at the Site without a permit granted by Illinois EPA, Respondents have violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2022).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, ROBERT WIETHOLDER, DESMOND JARVIS, and BOB JARVIS, on this Count II, as follows:

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

B. Finding that Respondents have violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2022);

C. Ordering Respondents to cease and desist from further violation of Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2022);

D. Assessing against each Respondent a civil penalty of up to \$50,000.00 for each violation of Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2022), and an additional civil penalty of \$10,000.00 for each day such violation continued pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2022);

E. Ordering the Respondents to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022); and

F. Ordering such other and further relief as the Board deems appropriate and just.

COUNT III
WASTE DISPOSAL AT AN IMPROPER SITE

1-34. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 30 of Count I, and paragraphs 30 through 33 of Count II, as paragraphs 1 through 34 of this Count III.

35. Section 21(e) of the Act, 415 ILCS 5/21(e) (2022), provides, in pertinent part, as follows:

No person shall:

(e) Dispose, treat, store or abandon any waste . . . except at a site or facility which meets the requirements of this Act and of regulations and standards thereunder.

36. The Site is not a site or facility that meets the requirements of the Act and of the regulations and standards promulgated thereunder for waste disposal or storage.

37. Beginning prior to September 9, 2020, and at times better known to Respondents, Respondents disposed of, stored, and/or abandoned wastes at the Site.

38. By disposing, storing, and/or abandoning wastes at the Site, Respondents have violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2022).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, ROBERT WIETHOLDER, DESMOND JARVIS, and BOB JARVIS, on Count III, as follows:

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

B. Finding that Respondents have violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2022);

C. Ordering Respondents to cease and desist from further violation of Section 21(e) of the Act, 415 ILCS 5/21(e) (2022);

D. Assessing against each Respondent a civil penalty of up to \$50,000.00 for each violation of Section 21(e) of the Act, 415 ILCS 5/21(e) (2022), and an additional civil penalty of up to \$10,000.00 for each day such violation continued pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2022);

E. Ordering Respondents to pay all costs, including expert witness, consultant, and attorney fees, expended by the State in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022); and

F. Ordering such other and further relief as the Board deems appropriate and just.

COUNT IV
OPEN DUMPING RESULTING IN LITTER

1-30. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 30 of Count I as paragraphs 1 through 30 of this Count IV.

31. Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2022), provides, in pertinent part, as follows:

No person shall:

(p) in violation of subdivision (a) of this Section, cause or allow the open dumping of any waste in a manner which results in any of the following occurrences at the dump site:

(1) litter;

32. Section 3(a) of the Litter Control Act, 415 ILCS 105/3(a) (2022), provides as follows:

(a) "Litter" means any discarded, used or unconsumed substance or waste. "Litter" may include, but is not limited to, any garbage, trash, refuse, debris, rubbish...or anything else...which has been discarded, abandoned or otherwise disposed of improperly.

33. Discarded materials present at the Site, including, but not limited to, mattresses, furniture, scrap metal, general construction and demolition debris, plastic waste, metal, fabric, televisions, lawn mower parts and other miscellaneous waste constitute “litter,” as that term is defined in Section 3(a) of the Litter Control Act, 415 ILCS 105/3(a) (2022).

34. Beginning prior to September 9, 2020, and at times better known to Respondents, Respondents have caused or allowed the open dumping of waste at the Site in violation of Section 21(a) of Act, 415 ILCS 5/21(a) (2022), in a manner that resulted in litter, and thereby have violated Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2022).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, ROBERT WIETHOLDER, DESMOND JARVIS, and BOB JARVIS, on Count IV:

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

B. Finding that Respondents have violated Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2022);

C. Ordering Respondents to cease and desist from further violations of Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2022);

D. Assessing against each Respondent a civil penalty of up to \$50,000.00 for each violation of Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1), and an additional civil penalty of up to \$10,000.00 for each day such violations continued pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2022);

E. Ordering Respondents to pay all costs, including expert witness, consultant, and attorney fees, expended by the State in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022); and

F. Ordering such other and further relief as the Board deems appropriate and just.

COUNT V
OPEN BURNING VIOLATIONS

1-30. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 30 of Count I as paragraphs 1 through 30 of this Count V.

31. Section 9 of the Act, 415 ILCS 5/9 (2022), provides, in pertinent part, 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.

(c) Cause or allow the open burning of refuse...except that the Board may adopt regulations permitting open burning of refuse in certain cases upon a finding that no harm will result from such burning, or that any alternative method of disposing of such refuse would create a safety hazard so extreme as to justify the pollution that would result from such burning.

32. Section 3.165 of the Act, 415 ILCS 5/3.165 (2022), provides as follows:

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

33. Section 3.115 of the Act, 415 ILCS 5/3.115 (2022), provides as follows:

“Air pollution” is the presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health,

or to property, or to unreasonably interfere with the enjoyment of life or property.

34. Section 3.300 of the Act, 415 ILCS 5/3.300 (2022), provides as follows:

“Open burning” is the combustion of any matter in the open or in an open dump.

35. Section 3.130 of the Act, 415 ILCS 5/3.130 (2022), provides as follows:

“Board” is the Pollution Control Board established by this Act.

36. Section 21(p)(3) of the Act, 415 ILCS 5/21(p)(3) (2022), provides as follows:

No person shall:

(p) In violation of subdivision (a) of this Section, cause or allow the open dumping of any waste in a manner which results in any of the following occurrences at the dump site:

(3) Open burning;

37. Beginning prior to September 9, 2020, and at times better known to Respondents, Respondents caused or allowed the open burning of refuse at the Site and thereby caused, threatened or allowed the discharge or emission of contaminants into the environment so as to cause or tend to cause air pollution in Illinois.

38. By causing, threatening, or allowing the discharge or emission of contaminants into the environment so as to cause or tend to cause air pollution in Illinois, Respondents have violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2022).

39. Beginning prior to September 9, 2020, and at times better known to Respondents, Respondents caused or allowed the open burning of refuse at the Site in a manner unapproved by the Board.

40. By causing or allowing the open burning of refuse at the Site in a manner unapproved by the Board, Respondents have violated Section 9(c) of the Act, 415 ILCS 5/9(c) (2022).

41. Beginning prior to September 9, 2020, and at times better known to Respondents, Respondents caused or allowed the open dumping of wastes at the Site in a manner that resulted in open burning.

42. By causing or allowing open dumping at the Site that resulted in open burning, Respondents have violated Section 21(p)(3) of the Act, 415 ILCS 5/21(p)(3) (2022).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, ROBERT WIETHOLDER, DESMOND JARVIS, and BOB JARVIS, on Count V:

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

B. Finding that Respondents have violated Sections 9(a), 9(c), and 21(p)(3) of the Act, 415 ILCS 5/9(a), 9(c), and 21(p)(3) (2022);

C. Ordering Respondents to cease and desist from further violations of Sections 9(a), 9(c), and 21(p)(3) of the Act, 415 ILCS 5/9(a), 9(c), and 21(p)(3) (2022);

D. Assessing against each Respondent a civil penalty of up to \$50,000.00 for each violation of Sections 9(a), 9(c) and 21(p)(3) of the Act, 415 ILCS 5/9(a), 9(c), and 21(p)(3) (2022), and an additional civil penalty of up to \$10,000.00 for each day such violations continued pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2022);

E. Assessing all costs against Respondents, including attorney, expert witness, and consultant fees, expended by the State in pursuit of this action pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022); and

F. Ordering such other and further 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/ Andrew Armstrong
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CERTIFICATE OF SERVICE

I, Bridget I. Flynn, an Assistant Attorney General, certify that on the 29th of June, 2023, I caused to be served by U.S. Certified Mail, the foregoing Notice of Filing and Complaint to the parties named on the attached Service List, by depositing same in postage prepaid envelopes with the United States Postal Service located at 500 South Second Street, Springfield, Illinois 62701.

By: /s/ Bridget I. Flynn
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