

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD RECEIVED  
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SEP 29 2003

STATE OF ILLINOIS  
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS )  
)  
Complainant, )  
)  
v. )  
)  
DOREN POLAND, LLOYD YOHO, and )  
BRIGGS INDUSTRIES, Inc., )  
)  
Respondents. )

PCB NO. 98-148  
(Enforcement)

NOTICE OF FILING

**TO:** Dorothy Gunn, Clerk, Illinois Pollution Control Board, 100 West Randolph Street,  
James R. Thompson Center, Suite 11-500, Chicago, IL 60601-3218;

Bradley Halloran, Hearing Officer, Illinois Pollution Control Board, 100 W. Randolph  
Street, Suite 11-500, Chicago, IL 60601

Thomas Davis, Assistant Attorney General, Chief Environmental Bureau, 500 South  
Second Street, Springfield, IL 62706

Doren Poland, 506 East Latimer, Abingdon, IL 61410

Lloyd Yoho and Abingdon Salvage, Inc., 710 North Main Street, Abingdon, IL 61410

Loren West, 381 North Pearl, Galesburg, IL 61401

PLEASE TAKE NOTICE that on September 26, 2003, I mailed for filing with the Clerk  
of the Pollution Control Board of the State of Illinois, Briggs' Section 101.904(a) Motion, a copy  
of which is attached hereto and herewith served upon you.

BRIGGS INDUSTRIES, INC.,

BY: MOHAN, ALEWELT, PRILLAMAN & ADAMI

BY: Joel A Benoit  
Joel A. Benoit

MOHAN, ALEWELT, PRILLAMAN & ADAMI  
1 North Old Capitol Plaza, Suite 325  
Springfield, IL 62701-1323  
Telephone: 217/528-2517  
Facsimile: 217/528-2553

THIS FILING IS SUBMITTED ON RECYCLED PAPER

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STATE OF ILLINOIS  
Pollution Control Board

BRIGGS' SECTION 101.904(a) MOTION

NOW COMES Briggs Industries, Inc., by and through its attorneys, Mohan, Alewelt, Prillaman & Adami, and for its Section 101.904(a) Motion, states as follows:

1. On August 7, 2003, the Board entered an Order setting forth its decision as to the technical relief and penalty phase regarding the claims filed by the People of the State of Illinois in this enforcement action.
2. The August 7, 2003, Order requires that all Respondents pay the civil penalties imposed by September 8, 2003.
3. The August 7, 2003, Order was not served on counsel for Respondent Briggs.
4. On September 25, 2003, I was conducting LEXIS computer assisted legal research concerning Board opinions, and I then discovered the August 7, 2003, Order.
5. I immediately instructed the firm's staff to examine their logs regarding incoming mail, and none of the firm's incoming mail logs included an entry regarding the August 7, 2003, Order.
6. I then telephoned Respondents Poland and Yoho; Respondent Poland's wife advised me that Respondent Poland had not received the Order; Respondent Yoho also advised me that he had not received the Order.

7. On September 26, 2003, I spoke with Thomas Davis, the Assistant Attorney General representing the People in this matter, and he advised me that he had received the August 7, 2003, but he did not know whether it was mailed to him as a separate document or whether he received it as part of his weekly packet of mail from the Board.

8. All Respondents are prejudiced by not having been served with the August 7, 2003, Order because the September 8, 2003, penalty payment date set forth passed before their receipt of the Order, and interest is now accruing.

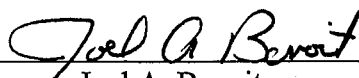
9. Further, Respondent Briggs is prejudiced because the August 7, 2003, Order contains rulings that will likely impact the prosecution or settlement of the Third-Party Complaints.

10. My affidavit supporting this motion is attached hereto as Exhibit A.

WHEREFORE, Respondent Briggs requests that the August 7, 2003, Order be modified to provide that all penalties must be paid no later than October 31, 2003. I have today mailed the August 7, 2003, Order to all interested parties (See Certificate of Service regarding August 7, 2003 Order attached hereto as Exhibit B), thus an October 31, 2003, penalty payment date will be approximately 30 days after their receipt of the August 7, 2003, Order.

BRIGGS INDUSTRIES, INC.  
Respondent

By MOHAN, ALEWELT, PRILLAMAN & ADAMI  
Its attorneys

By   
Joel A. Benoit

MOHAN, ALEWELT, PRILLAMAN & ADAMI  
1 N. Old Capitol Plaza, Ste. 325  
Springfield, IL 62701  
217/528-2517

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS )

Complainant, )

v. )

DOREN POLAND, LLOYD YOHO, and )  
BRIGGS INDUSTRIES, Inc., )

Respondents. )

PCB NO. 98-148  
(Enforcement)

STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF SANGAMON )

AFFIDAVIT

I, Joel A. Benoit, and adult resident of Sangamon County, Illinois, if sworn as a witness, am competent to testify the following facts:

I am the attorney representing Respondent Briggs Industries, Inc., in the above-captioned enforcement action.

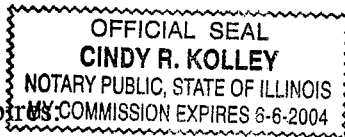
All statements of fact set forth in BRIGGS' SECTION 101.904(a) MOTION are true and correct.

FURTHER AFFIANT SAYETH NOT.

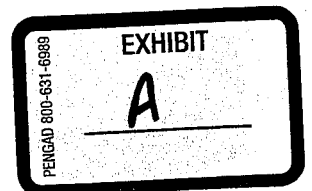
Joel A. Benoit  
Joel A. Benoit

Subscribed and sworn to me this 26<sup>th</sup> day of September, 2003.

Cindy R. Kolley  
Notary Public



My Commission Expires  
(seal)



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 BRIGGS INDUSTRIES, Inc., )  
 )  
 Respondents. )

CERTIFICATE OF SERVICE REGARDING AUGUST 7, 2003 ORDER

The undersigned certifies that a copy of the August 7, 2003 Board Order was served upon the following by enclosing the same in envelopes addressed to said parties with postage fully prepaid, and by depositing said envelopes in a U.S. Post Office mail box in Springfield, Illinois on the 26th day of September, 2003:

Doren Poland  
506 East Latimer  
Abingdon, IL 61410

Loren West  
381 North Pearl  
Galesburg, IL 61401

Thomas Davis  
Assistant Attorney General  
Chief Environmental Bureau  
500 South Second Street  
Springfield, IL 62706  
(without copy of order)

Lloyd Yoho and  
Abingdon Salvage, Inc.  
710 North Main Street  
Abingdon, IL 61410

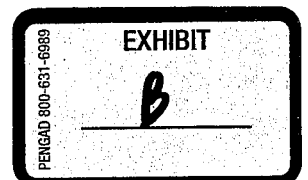
and the original and nine copies by First Class Mail with postage thereon fully prepaid of the same foregoing instrument(s)

TO: Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
State of Illinois Center, Suite 11-500  
100 West Randolph  
Chicago, IL 60601  
(without copy of order)

  
\_\_\_\_\_  
Joel A. Benoit

Joel A. Benoit  
MOHAN, ALEWELT, PRILLAMAN & ADAMI  
1 N. Old Capitol Plaza, Ste. 325  
Springfield, IL 62701  
217/528-2517

THIS FILING IS SUBMITTED ON RECYCLED PAPER.



**Proof of Service**

The undersigned certifies that a copy of the foregoing Section 101.904(a) Motion was served upon the following attorney of record by enclosing the same in an envelope addressed to said party with postage fully prepaid, and by depositing said envelope in a U.S. Post Office mail box in Springfield, Illinois on the 26th day of September, 2003:

Doren Poland  
506 East Latimer  
Abingdon, IL 61410

Loren West  
381 North Pearl  
Galesburg, IL 61401

Lloyd Yoho  
710 North Main Street  
Abingdon, IL 61410

Bradley P. Halloran  
Hearing Officer  
Illinois Pollution Control Board  
100 W. Randolph Street, Suite 11-500  
Chicago, IL 60601

Thomas Davis  
Assistant Attorney General  
Chief Environmental Bureau  
500 South Second Street  
Springfield, IL 62706

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Illinois Pollution Control Board  
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