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NOV 26 2003

STATE OF ILLINOIS
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

November 21, 2003

The Honorable Dorothy Gunn
Illinois Pollution Control Board
State of Illinois Center
100 West Randolph
Chicago, Illinois 60601

Re: ***People v. Reilly Industries, Inc.***
PCB No. 03-182

Dear Clerk Gunn:

Enclosed for filing please find the original and ten copies of a NOTICE OF FILING, COMPLAINANT'S MOTION TO FILE FIRST SUPPLEMENTAL COMPLAINT and FIRST SUPPLEMENTAL COMPLAINT in regard to the above-captioned matter. Please file the original and return a file-stamped copy of the document to our office in the enclosed self-addressed, stamped envelope.

Thank you for your cooperation and consideration.

Very truly yours,

A handwritten signature in cursive script that reads "Sally A. Carter".

Sally A. Carter
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706
(217) 782-9031

TD/pp
Enclosures

RECEIVED

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD CLERK'S OFFICE

NOV 26 2003

PEOPLE OF THE STATE OF)
 ILLINOIS,)
)
 Complainant,)
)
 vs.)
)
 REILLY INDUSTRIES, INC.,)
 an Indiana corporation,)
)
 Respondent.)

STATE OF ILLINOIS
Pollution Control Board

PCB No. 03-182
(Enforcement)

NOTICE OF FILING

To: Anne Frye
General Counsel
Reilly Industries, Inc.
300 N. Meridian Street, Suite 1500
Indianapolis, IN 46204

PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois, COMPLAINANT'S MOTION TO FILE FIRST SUPPLEMENTAL COMPLAINT and FIRST SUPPLEMENTAL COMPLAINT, a copy of which is attached hereto and herewith served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN,
Attorney General of the
State of Illinois

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

BY: *Sally A. Carter*
SALLY A. CARTER
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: November 21, 2003

CERTIFICATE OF SERVICE

I hereby certify that I did on November 21, 2003, send by First Class Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instruments entitled COMPLAINANT'S MOTION TO FILE FIRST SUPPLEMENTAL COMPLAINT and FIRST SUPPLEMENTAL COMPLAINT


To: Anne Frye
General Counsel
Reilly Industries, Inc.
300 N. Meridian Street, Suite 1500
Indianapolis, IN 46204

and the original and ten 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, Illinois 60601

a copy was also sent to:

Carol Sudman
Hearing Officer
Illinois Pollution Control Board
1021 N. Grand Avenue East
Springfield, IL 62794



Sally A. Carter
Environmental Bureau
Assistant Attorney General

This filing is submitted on recycled paper.

RECEIVED

CLERK'S OFFICE

NOV 26 2003

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 vs.)
)
 REILLY INDUSTRIES, INC.,)
 an Indiana corporation,)
)
 Respondent.)

STATE OF ILLINOIS
Pollution Control Board

No. 3-182
(Enforcement)

COMPLAINANT'S MOTION TO FILE FIRST SUPPLEMENTAL COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, filed an eleven-count Complaint against the Respondent, REILLY INDUSTRIES, INC., on April 8, 2003. The People respectfully move, pursuant to Section 103.206(d) of the Board's Procedural Rules, 35 Ill. Adm. Code 103.206(d), for leave to file the attached First Supplemental Complaint in order to include violations that have occurred subsequent to the filing of the initial Complaint.

Subsequent to the filing of the Complaint, the Complainant was informed of the violations now pleaded within Counts XII and XIII. In the interests of administrative efficiency, the inclusion of these additional violations within the pending enforcement proceeding is necessary. The additional claims arose out of occurrences that took place after the filing of the original pleadings, thereby satisfying the requirement of Section 2-609 of the Code of Civil Procedure. The claims are brought upon the Attorney General's own motion and at the request of the Illinois Environmental Protection Agency. The Respondent has waived the requirements of Section 31 of the Act, 415 ILCS 5/31 (2002), regarding the allegations within Counts XII and XIII.

Pursuant to Section 103.204(f) of the Board's Procedural Rules, the Respondent is hereby notified: 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.

WHEREFORE, Complainant respectfully asks that this Motion to File First Supplemental Complaint be granted and that the Complainant be allowed to enforce the additional allegations in this pending matter.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,

LISA MADIGAN
Attorney General
State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement Division

BY: Sally A. Carter
SALLY A. CARTER
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: November 20, 2003

3. The Complaint is brought pursuant to Section 31 of the Act, 415 ILCS 5/31 (2002), after providing the Respondent with notice and opportunity for a meeting with the Illinois EPA.

4. Respondent, Reilly Industries, Inc. ("Reilly"), is an Indiana corporation authorized to do business in Illinois. Its registered agent is C.T. Corporation Systems, 208 South LaSalle Street, Chicago, Illinois.

5. At all times relevant to this Complaint, Reilly has owned and operated a coal tar distillation process at 1450 Edwardsville Road, Granite City, Madison County, Illinois ("facility").

6. The facility distills coal tars into light oils, creosotes, and pitches in six batch-type stills. A seventh still at the site is not currently used for processing. One of the stills is operated continuously. The other five stills are charged sequentially, usually for a period of 20 hours. After the still is filled with coal tar, natural gas burners are ignited. As the temperature of the tar increases, its constituents are vaporized. The vapor line is indirectly cooled with water forming condensed liquid. Condensed liquid from the vapor lines are drained into receiving pans that hold the various products. Liquids are pumped from the receiving pans into the appropriate tanks. Emission units at the facility include six receiving pans that are controlled by a scrubber.

7. On May 3, 2000, Reilly was issued construction permit no. 99040035 that authorized Reilly to construct seven distillation stills and a scrubber. The permit further allowed Reilly to operate the equipment for a period of 270 days.

8. On March 2, 2001, construction permit no. 99040035 was revised and extended because Reilly wished to increase production and also planned to add two additional storage tanks.

9. As required by the construction permit, Reilly planned to conduct a stack test on the scrubber. A test protocol was submitted to the Illinois EPA on March 22, 2001, and the test was conducted on April 3, 2001. Representatives of the Illinois EPA witnessed the test.

10. Test results were submitted to the Illinois EPA on July 26, 2001. Upon review, the Illinois EPA confirmed that the stack test did not demonstrate compliance with the applicable regulations.

11. Reilly scheduled additional tests for August 15, 2001. Representatives of the Illinois EPA were again on hand to witness the test. The test was eventually aborted due to a decrease in the scrubber's efficiency. Raw data from the August 15 test was submitted to the Illinois EPA on August 17, 2001. Because Reilly was unable to complete the tests, it did not apply for an operating permit for the coal tar distillation process.

12. The 270-day operating period allowed by construction permit no. 99040035 expired on November 27, 2001; however, Reilly continues to operate the stills and the scrubber.

13. On May 21, 2002, Reilly conducted a third stack test on the scrubber. Final results of the test were submitted to the Illinois EPA on August 28, 2002. The tests were aborted when the results again indicated that Reilly still had not achieved compliance with the applicable Board regulations.

14. Section 9(a) of the Act, 415 ILCS 5/9(a) (2002), provides:

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;

15. Section 3.115 of the Act, 415 ILCS 5/3.115 (2002), defines "air pollution" 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.

16. Section 3.165 of the Act, 415 ILCS 5/3.165 (2002), defines "contaminant" as follows:

"CONTAMINANT" is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

17. 35 Ill. Adm. Code 219.501(a) provides:

Every owner or operator of a single unit operation with an average flow rate, as determined in accordance with Section 219.502(b) of this Subpart, below the flow rate value calculated by the applicability equations contained in Section 219.500(e) of this Subpart, shall reduce uncontrolled VOM emissions from such single unit operation by an overall efficiency, on average of at least 90 percent, or 20 ppmv, per batch cycle.

18. Each of Reilly's five batch stills is subject to the requirements of 35 Ill. Adm. Code Subpart V.

19. Results of the stack test conducted on April 3, 2001, indicated that average removal efficiency of the scrubber was 85.058%.

20. A re-test conducted on August 15, 2001, was aborted because scrubber efficiency fell below acceptable levels.

21. A third stack test conducted on May 21, 2002, indicated that removal efficiency of the scrubber is 73.79%.

22. Concentrations of VOM in the scrubber outlet in all three tests were above 20 ppmv.

23. Reilly demonstrated on several occasions that its operations are not in compliance with 35 Ill. Adm. Code 219.501(a) for batch operations.

24. By operating its batch stills with less than the requisite efficiency required by 35 Ill. Adm. Code 219.501(a), the Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2002).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the People of the State of Illinois, respectfully request that the Board enter an order against the Respondent, Reilly Industries, Inc.:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2002), impose a civil penalty of not more than the statutory maximum;
- E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2002), awarding to Complainant its costs and reasonable attorney fees; and
- F. Granting such other relief as the Board may deem appropriate.

COUNT II

CONSTRUCTION PERMIT VIOLATIONS

1-23. The Complainant realleges and incorporates by reference paragraphs 1 through 23 of Count I as paragraphs 1 through 23 of this Count II.

24. Section 9(b) of the Act, 415 ILCS 5/9(b) (2002), provides:

No person shall:

Construct, install, or operate any equipment, facility, vehicle, vessel, or aircraft capable of causing or contributing to air pollution or designed to prevent air pollution, of any type designated by Board regulations, without a permit granted

by the [Illinois Environmental Protection] Agency, or in violation of any conditions imposed by such permit;

25. Condition 2(d) of construction permit no. 99040035 provides:

The Permittee shall comply with the following Control Requirements for Batch Operations: the scrubber shall reduce uncontrolled VOM emissions from the seven distillation stills by an overall efficiency, on average, of at least 90 percent or 20 ppmv, per batch cycle, pursuant to 35 Ill. Adm. Code 219.501(b).

26. By failing to reduce uncontrolled VOM emissions from the seven distillation stills by an overall efficiency, an average, of at least 90 percent or 20 ppmv, per batch cycle, pursuant to 35 Ill. Adm. Code 219.501(b), the Respondent has violated Condition 2(d) of the construction permit number 99040035.

27. By violating Condition 2(d) of the construction permit number 99040035, the Respondent has violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2002).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the People of the State of Illinois, respectfully request that the Board enter an order against the Respondent, Reilly Industries, Inc.:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2002), impose a civil penalty of not more than the statutory maximum;
- E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2002), awarding to Complainant its costs and reasonable attorney fees; and
- F. Granting such other relief as the Board may deem appropriate.

COUNT III

OPERATING PERMIT VIOLATIONS

1-18. The Complainant realleges and incorporates by reference paragraphs 1 through 18 of Count I as paragraphs 1 through 18 of this Count III.

19. 35 Ill. Adm. Code 201.143 provides, in part:

No person shall cause or allow the operation of any new emission source or new air pollution control equipment of a type for which a construction permit is required by Section 201.142 without first obtaining an operating permit from the Agency, except for such testing operations as may be authorized by the construction permit.

20. By continuing to operate the stills and scrubbers after the expiration of the 270-day operating period on November 27, 2001, the Respondent has violated 35 Ill. Adm. Code 201.143.

21. By violating 35 Ill. Adm. Code 201.143, the Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2002).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the People of the State of Illinois, respectfully request that the Board enter an order against the Respondent, Reilly Industries, Inc.:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2002), impose a civil penalty of not more than the statutory maximum;

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2002), awarding to Complainant its costs and reasonable attorney fees; and

F. Granting such other relief as the Board may deem appropriate.

COUNT IV

WASTE MANAGEMENT STANDARD VIOLATIONS

1-5. The Complainant realleges and incorporates by reference paragraphs 1 through 5 of Count I as paragraphs 1 through 5 of this Count IV.

6. In January 1996, Reilly ceased production of coal tar products and creosote. The facility was converted to a terminal that transferred coal tar from rail cars to tanker trucks. In January 2000, Reilly returned to a full production facility. At the facility, Reilly refines crude coal tar into several products, including coal tar pitch, refined coal tars and coal tar distillates. Reilly receives crude coal tar in rail cars and tanker trucks. The crude coal tar is distilled in seven stills. The cuts off of these stills are water, light oil, heavy oil, creosote and final products. The final products include 100° Pitch, 60° Pitch, 85° Pitch and emulsion-based tar.

7. The Illinois EPA currently regulates Reilly as a Large Quantity Generator of hazardous waste. The hazardous wastes generated by Reilly include still bottoms from coal tar distillation (K148), coal tar storage tank residues (K147 and D018), and petroleum naphtha (D001, D018 and D039). Reilly periodically generates lab packs (D002, P and U wastes) and paint waste (D002). The non-hazardous wastes include coal tar residue and construction debris, emulsion-based tar, waste pitch, mercury bulbs and used oil. The wastewater is treated in an on-site wastewater treatment plant. Reilly's pre-treatment plant receives storm water, source control water, process water, boiler water and groundwater from closed surface impoundment pump and treat system.

8. At one time, Reilly had operated a hazardous waste surface impoundment (T02) for treated wastewater from the production of creosote (K035). This surface impoundment was certified closed as a landfill on February 5, 1990. Reilly could not achieve clean closure and the surface impoundment was reclassified as a closed impoundment (D93). Reilly has submitted a RCRA Part B Post-Closure Permit Application to the Illinois EPA. A draft Part B Permit was issued on September 29, 1994. The facility's post-closure care consists of groundwater monitoring and a pump-and-treat system. The Illinois EPA has not yet issued a final permit.

9. Section 21(e) of the Act, 415 ILCS 5/21(e) (2002), provides:

No person shall:

- e) Dispose, treat, store or abandon any waste, or transport any waste into this State for disposal, treatment, storage or abandonment, except at a site or facility which meets the requirements of this Act and of regulations and standards thereunder.

10. On June 28, 2000, and July 24, 2000, the Illinois EPA conducted a Compliance Evaluation Inspection of the facility. During the June 28, 2000, inspection, the Illinois EPA observed that roll-off box number 20326 of front end oil (D018) was leaking a black liquid on the ground. Approximately 5 to 10 gallons of hazardous waste were observed on the ground around the door of the box. At this time, liquid was actively leaking from the door.

11. During a follow-up inspection on July 24, 2000, the weekly container inspection records showed that the roll-off box number 20326 was observed leaking from June 23, 2000 through July 10, 2000. Reilly exceeded the ten-pound reportable quantity for benzene (D018). Reilly did not report the release to the Illinois Emergency Management Agency ("IEMA") until September 8, 2000.

12. In addition, during the inspection of July 24, 2000, the Illinois EPA observed a leaking roll-off box of crude coal tar tank bottoms, labeled roll-off box 20247, on a concrete pad near Tank T4 and the locker room and laboratory. At this time, the box was actively leaking

crude tar tank bottoms from both ends of the box onto the concrete pad. Approximately one to three gallons of black liquid was observed on the pad around the box. Roll-off box 20247 had been leaking for several days and had a hole in the cover tarp. The field inspector also noted a large stained area on the concrete pad running to the low spot on the concrete. The pad did not have secondary containment or run-on, run-off protection.

13. Lastly, during the inspection of July 24, 2000, the Illinois EPA observed roll-off box 20417 of crude coal tar tank bottoms, which contained waste on top of the tarp covering the box. The warm temperature had liquified this waste causing it to run down the tarp onto the ground.

14. By disposing, treating, storing or abandoning any waste or transporting any waste into this State for disposal, treatment storage, or abandonment, at a site or facility which does not meet the requirements of the Act and of the associated regulations, Reilly has violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2002).

PRAYER FOR RELIEF

WHEREFORE, Complaint, the People of the State of Illinois, respectfully requests that the Board enter an order against the Respondent, Reilly Industries, Inc.:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2002), impose a civil penalty of up to fifth thousand dollars (\$50,000.00) for each violation and an additional penalty of ten thousand (\$10,000.00) for each day during which such violations continued;

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2002), award to Complainant its costs and reasonable attorney's fees; and

F. Granting such other relief as the Board may deem appropriate.

COUNT V

RCRA PERMIT VIOLATIONS

1-5. Complainant realleges and incorporates herein paragraphs 1 through 5 of Count I as paragraphs 1 through 5 of this Count V.

6-13. Complainant realleges and incorporates herein paragraphs 6 through 13 of Count IV as paragraphs 6 through 13 of this Count V.

14. Section 21(f) of the Act, 415 ILCS 5/21(f) (2002), provides:

No person shall:

- f) Conduct any hazardous waste-storage, hazardous waste-treatment or hazardous waste-disposal operation:
 - 1) without a RCRA permit for the site issued by the Agency under subsection (d) of Section 39 of this Act, or in violation of any condition imposed by such permit, including periodic reports and full access to adequate records and the inspection of facilities, as may be necessary to assure compliance with this Act and with regulations and standards adopted thereunder; or
 - 2) in violation of any regulations or standards adopted by the Board under this Act; . . .

15. Section 703.121(a) of the Board's Land Pollution Regulations, 35 Ill. Adm. Code 703.121(a), provides:

RCRA Permits

- a) No person shall conduct any hazardous waste storage, hazardous waste treatment or hazardous waste disposal operation:
 - 1) Without a RCRA permit for the HWM (hazardous waste management) facility; or
 - 2) In violation of any condition imposed by a RCRA permit;

16. Section 722.134(a) of the Board's Land Pollution Regulations, 35 Ill. Adm. Code 722.134(a), provides:

Accumulation Time

- a) Except as provided in subsection (d), (e), or (f) of this Section, a generator is exempt from all the requirements in 35 Ill. Adm. Code 725. Subparts G and H, except for 35 Ill. Adm. Code 725.211 and 725.214, and may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that the following conditions are fulfilled:
 - 1) The waste is placed in or on one of the following:
 - A) In containers, and the generator complies with 35 Ill. Adm. Code 725. Subparts I, AA, BB, and CC;
 - B) In tanks, and the generator complies with 35 Ill. Adm. Code 725. Subparts J, AA, BB, and CC, except 35 Ill. Adm. Code 725.297(c) and 725.300;
 - C) On drip pads, and the generator complies with 35 Ill. Adm. Code 725. Subpart W and maintains the following records at the facility:
 - i) A description of the procedures that will be followed to ensure that all wastes are removed from the drip pad and associated collection system at least once every 90 days, and
 - ii) Documentation of each waste removal, including the quantity of waste removed from the drip pad and the sump or collection system and the date and time of removal; or
 - D) In containment buildings, and the generator complies with 35 Ill. Adm. Code 725. Subpart DD (has placed its Professional Engineer (PE) certification that the building complies with the design standards specified in 35 Ill. Adm. Code 725.1101 in the facility's operating record prior to the date of initial operation of the unit). The owner or operator shall maintain the following records at the facility:
 - i) A written description of procedures to ensure that each waste volume remains in the unit for no more than 90 days, a written description of the waste generation and management practices for the

facility showing that they are consistent with respecting the 90 day limit, and documentation that the procedures are complied with; or

- ii) Documentation that the unit is emptied at least once every 90 days;

BOARD NOTE: The "in addition" hanging subsection that appears in the Federal rules after 40 CFR 262.34(a)(1)(iv)(B) is in the introduction to subsection (a) of this Section.

- 2) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;
- 3) While being accumulated on-site, each container and tank is labeled or marked clearly with the words "Hazardous Waste"; and
- 4) The generator complies with the requirements for treatment, storage, and disposal facility owners or operators in 35 Ill. Adm. Code 725. Subparts C and D and with 35 Ill. Adm. Code 725.116 and 728.107(a)(4).

- 17. Section 725.131 of the Board's Land Pollution Regulations, 35 Ill. Adm. Code

725.131, provides:

Maintenance and Operation of Facility

Facilities must be maintained and operated to minimize the possibility of a fire, explosion or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil or surface water which could threaten human health or the environment.

- 18. Section 725.151(b) of the Board's Land Pollution Regulations, 35 Ill. Adm. Code

725.151(b), provides:

Purpose and Implementation of Contingency Plan

- b) The provisions of the plan must be carried out immediately whenever there is a fire, explosion or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment.

- 19. Section 725.156(j) of the Board's Land Pollution Regulations, 35 Ill. Adm. Code

725.156(j), provides:

Emergency Procedures

J) The owner or operator shall note in the operating record the time, date and details of any incident that requires implementing the contingency plan. Within 15 days after the incident, it shall submit a written report on the incident to the Director. The report must include:

- 1) Name, address, and telephone number of the owner or operator
- 2) Name, address, and telephone number of the facility
- 3) Date, time and type of incident (e.g., fire, explosion)
- 4) Name and quantity of materials involved
- 5) The extent of injuries, if any
- 6) An assessment of actual or potential hazards to human health or the environment, where this is applicable, and
- 7) Estimated quantity and disposition of recovered material that resulted from the incident.

20. Section 725.273(a) of the Board's Land Pollution Regulations, 35 Ill. Adm. Code 725.273(a), provides:

Management of Containers

- a) A container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.

21. During the inspections of June 28, 2000 and July 24, 2000, the Illinois EPA observed hazardous waste D018 and K147 being land disposed of at the Reilly facility.

22. By land disposing hazardous waste D018 and K147 at the facility without a RCRA permit, Reilly operated a hazardous waste facility without a permit issued by the Illinois EPA, in violation of 415 ILCS 5/21(f) and 35 Ill. Adm. Code 703.121(a). As Reilly failed to comply with the permit exemption requirements of 35 Ill. Adm. Code 722.134(a), specifically 725.151(b), 725.156(j) and 725.273(a), Reilly does not qualify for the exemption from RCRA for generators who accumulate waste on-site for 90-days or less.

PRAYER FOR RELIEF

WHEREFORE, Complainant, the People of the State of Illinois, respectfully requests that the Board enter an order against the Respondent, Reilly Industries, Inc.

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2002), impose a civil penalty of up to fifty thousand dollars (\$50,000.00) for each violation and an additional penalty of ten thousand (\$10,000.00) for each day during which such violations continued:
- E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2002), award to Complainant its costs and reasonable attorney's fees; and
- F. Granting such other relief as the Board may deem appropriate.

COUNT VI

PREPAREDNESS AND PREVENTION VIOLATIONS

1-5. Complainant realleges and incorporates herein paragraphs 1 through 5 of Count I as paragraphs 1 through 5 of this Count VI.

6-13. Complainant realleges and incorporates herein paragraphs 6 through 13 of Count IV as paragraphs 6 through 13 of this Count VI.

14-15. Complainant realleges and incorporates herein paragraphs 14 and 17 of Count V as paragraphs 14 and 15 of this Count VI.

16. During the inspection of June 28, 2000, the Illinois EPA observed roll-off box 20326 leaking hazardous waste front end oil (D018) onto the ground. During the inspection of July 24, 2000, the Illinois EPA observed roll-off box 20247 with a hole in the tarp and leaking hazardous waste crude coal tar tank bottoms (K147 and D018) onto a concrete pad without

containment. Also on July 24, 2000, the Illinois EPA observed waste on the tarp of roll-off box 20417, which was dripping on the ground.

17. By failing to maintain and operate the facility in a manner to minimize the possibility of a fire, explosion or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil or surface water which would threaten human health or the environment, Reilly has violated 35 Ill. Adm. Code 725.131.

18. By violating 35 Ill. Adm. Code 725.131, Reilly has violated Section 21(f) of the Act, 415 ILCS 5/21(f) (2002).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the People of the State of Illinois, respectfully requests that the Board enter an order against the Respondent, Reilly Industries, Inc.:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2002), impose a civil penalty of up to fifty thousand dollars (\$50,000.00) for each violation and an additional penalty of ten thousand (\$10,000.00) for each day during which such violations continued;
- E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2002), award to Complainant its costs and reasonable attorney's fees; and
- F. Granting such other relief as the Board may deem appropriate.

COUNT VII

CONTINGENCY PLAN VIOLATIONS

1-5. Complainant realleges and incorporates herein paragraphs 1 through 5 of Count I as paragraphs 1 through 5 of this Count VII.

6-13. Complainant realleges and incorporates herein paragraphs 6 through 13 of Count IV as paragraphs 6 through 13 of this Count VII.

14-16. Complainant realleges and incorporates herein paragraphs 14 and 18 through 19 of Count V as paragraphs 14 through 16 of this Count VII.

17. During the inspections of June 28, 2000 and July 24, 2000, the Illinois EPA observed that Reilly failed to follow its contingency plan by not reporting the release of front end oil (D018) to the proper authorities within 24 hours after the reportable quantity was exceeded. Reilly also failed to submit a written report to the Illinois EPA 15 days after the implementation of the contingency plan.

18. By failing to carry out immediately the provisions of the contingency plan whenever there is a fire, explosion or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment, Reilly has violated 35 Ill. Adm. Code 725.151(b).

19. By failing to note in the operating record the time, date and details of any incident that requires the implementation of the contingency plan and by failing to submit the written report on the incident to the Director within 15 days after the incident, Reilly has violated 35 Ill. Adm. Code 725.156(j).

20. By violating 35 Ill. Adm. Code 725.151(b) and 725.156(j), Reilly has violated Section 21(f) of the Act, 415 ILCS 5/21(f) (2002).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the People of the State of Illinois, respectfully request that the Board enter an order against the Respondent, Reilly Industries, Inc.:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2002), impose a civil penalty of up to fifty thousand dollars (\$50,000.00) for each violation and an additional penalty of ten thousand (\$10,000.00) for each day during which such violations continued;
- E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2002), award to Complainant its costs and reasonable attorney's fees; and
- F. Granting such other relief as the Board may deem appropriate.

COUNT VIII

CONTAINER USE AND MANAGEMENT VIOLATIONS

1-5. Complainant realleges and incorporates herein paragraphs 1 through 5 of Count I as paragraphs 1 through 5 of this Count VIII.

6-13. Complainant realleges and incorporates herein paragraphs 6 through 13 of Count IV as paragraphs 6 through 13 of this Count VIII.

14-15. Complainant realleges and incorporates herein paragraphs 14 and 20 of Count V as paragraphs 14 through 15 of this Count VIII.

16. During the inspection of July 24, 2000, the Illinois EPA observed a hole in the tarp of roll-off box 20247.

17. By failing to manage roll-off box 20247 in a closed container during storage, Reilly has violated 35 Ill. Adm. Code 725.273(a).

18. By violating 35 Ill. Adm. Code 725.273(a), Reilly has violated Section 21(f) of the Act, 415 ILCS 5/21(f) (2002).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the People of the State of Illinois, respectfully requests that the Board enter an order against the Respondent, Reilly Industries, Inc.:

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

B. Finding that Respondent has violated the Act and regulations as alleged herein;

C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2002), impose a civil penalty of up to fifty thousand dollars (\$50,000.00) for each violation and an additional penalty of ten thousand (\$10,000.00) for each day during which such violations continued;

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2002), award to Complainant its costs and reasonable attorney's fees; and

F. Granting such other relief as the Board may deem appropriate.

COUNT IX

MANIFEST AND LAND DISPOSAL RESTRICTION VIOLATIONS

1-5. Complainant realleges and incorporates herein paragraphs 1 through 5 of Count I as paragraphs 1 through 5 of this Count IX.

6-13. Complainant realleges and incorporates herein paragraphs 6 through 13 of Count IV as paragraphs 6 through 13 of this Count IX.

14. Complainant realleges and incorporates herein paragraph 14 of Count V as paragraph 14 of this Count IX.

15. Section 722.123(a) of the Board's Land Pollution Regulations, 35 Ill. Adm. Code 722.123(a), provides:

Use of the Manifest

- a) The generator shall:
 - 1) Sign the manifest certification by hand; and
 - 2) Obtain the handwritten signature of the initial transporter and the date of acceptance on the manifest; and
 - 3) Retain one copy, in accordance with Section 722.140(a); and
 - 4) Send one copy of the manifest to the Agency within two working days

16. During the inspection of July 24, 2000, the Illinois EPA conducted a review of Reilly's records. Reilly failed to send a copy of Manifest IL7810209, dated June 9, 2000, to the Illinois EPA within two working days. Reilly also failed to list K147 hazardous waste on Manifest IL781022 and land disposal restriction ("LDR") forms that were used to ship coal tar tank bottoms.

17. By failing to send one copy of Manifest IL7810209 to the Illinois EPA within two working days, Reilly has violated 35 Ill. Adm. Code 722.123(a).

18. By violating 35 Ill. Adm. Code 722.123(a), Reilly has violated Section 21(f) of the Act, 415 ILCS 5/21(f) (2002).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the People of the State of Illinois, respectfully requests that the Board enter an order against the Respondent, Reilly Industries, Inc.:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act and regulations as alleged herein;

C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2002), impose a civil penalty of up to fifty thousand dollars (\$50,000.00) for each violation that occurred and an additional penalty of ten thousand (\$10,000.00) for each day during which such violations continued;

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2002), award to Complainant its costs and reasonable attorney's fees; and

F. Granting such other relief as the Board may deem appropriate.

COUNT X

WATER POLLUTION HAZARD VIOLATIONS IN 2000

1-5. Complainant realleges and incorporates herein paragraphs 1 through 5 of Count I as paragraphs 1 through 5 of this Count X.

6-8. Complainant realleges and incorporates herein paragraphs 6 through 8 of Count IV as paragraphs 6 through 8 of this Count X.

9. On August 29, 2000, Reilly had a release of approximately 200 pounds of electro binder pitch to concrete, gravel and soil. About 20 gallons impacted an area of soil 50 feet long by 16 feet wide. The release occurred when a male hose fitting, made of inappropriate material, separated from a 4-inch diameter pipe. The 20 gallons of pitch solidified quickly. Mechanical means were used to remove approximately 2,000 pounds of contaminated soil, vegetation and pitch (no material was recovered for reuse). The waste was shipped off-site for disposal as a special waste. The soil affected by this release was remediated to visually clean. No confirmation samples have been taken.

10. On September 14, 2000, Reilly had a release of approximately 500 gallons of crude coal tar from an 18,000-gallon rail car. An area measuring about 165 feet long by 15 feet wide was impacted. The coal tar release was caused by operator error when the wrong valve on the rail car was opened while the car was being heated. The 500 gallons of released coal tar collected on and under the railroad tracks. Approximately 250 gallons of tar were recovered and returned to the coal tar tank. Excavation equipment and a vacuum truck were used to collect the contaminated soil and gravel. The tracks were removed to assist with the cleaning operations. Approximately 155,380 pounds of coal tar contaminated soil and gravel were excavated and shipped off-site for disposal. The waste was tested and was non-hazardous per RCRA. The soil affected by this release was remediated to visually clean. No confirmation samples have been taken.

11. On November 1, 2000, Reilly had a release of approximately 1,500 gallons of creosote. The release was caused by operator error. The operator attached a creosote loading arm to the top of a railcar, started the pump, and left the area. When he arrived back at the railcar, he found the railcar running over. The 1,500 gallons of creosote was released onto the railroad bed of gravel and soil and into the Eastern Tank Farm's secondary containment. This area is designated as SWMU #4 in the draft part B Permit. The release covered about 20,000 square feet. Approximately 900 gallons of the creosote was recovered and returned to the coal tar tanks for reprocessing. Most of the spill was collected on a concrete pad, however, a large amount was released between and around the railroad tracks. A contractor was hired to clean the concrete pad and excavate the contaminated soil from around the tracks. Approximately 48,400 pounds of contaminated soil and gravel were shipped off-site as a U051 hazardous waste. The soil affected by this release was remediated to visually clean. No confirmation samples have been taken.

12. Section 12(d) of the Act, 415 ILCS 5/12(d) (2002), provides as follows:

No person shall:

Deposit any contaminants upon the land in such place and manner so as to create a water pollution hazard;

13. Section 3.165 of the Act, 415 ILCS 5/3.165 (2002), contains the following definition:

"CONTAMINANT" is any solid, liquid, or gaseous matter, any odor or any form of energy, from whatever source.

14. Section 3.550 of the Act, 415 ILCS 5/3.550 (2002), contains the following definition:

"WATERS" means all accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon this State.

15. Water pollution is defined at Section 3.545 of the Act, 415 ILCS 5/3.545 (2002):

Water pollution is such alteration of the physical, thermal, chemical, biological or radioactive properties of any waters of the State, or such discharge of any contaminant into any waters of the State, as will or is likely to create a nuisance or render such water harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish or other aquatic life.

16. Reilly has caused or allowed contaminants to be deposited upon the land in such place and manner as to create a water pollution hazard through its proximity to groundwater.

17. By depositing contaminants upon the land in such place and manner as to create a water pollution hazard, the Defendant has violated Section 12(d) of the Act, 415 ILCS 5/12(d)

PRAYER FOR RELIEF

WHEREFORE, Complainant, the People of the State of Illinois, respectfully requests that the Board enter an order against the Respondent, Reilly Industries, Inc.:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2002), impose a civil penalty of up to fifty thousand dollars (\$50,000.00) for each violation and an additional penalty of ten thousand (\$10,000.00) for each day during which such violations continued;
- E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2002), award to Complainant its costs and reasonable attorney's fees; and
- F. Granting such other relief as the Board may deem appropriate.

COUNT XI

NOVEMBER 1, 2000, AIR POLLUTION VIOLATION

- 1-8. Complainant realleges and incorporates herein paragraphs 1 through 5 and 14 through 16 of Count I as paragraphs 1 through 8 of this Count XI.
- 9-11. Complainant realleges and incorporates herein paragraphs 6 through 8 of Count IV as paragraphs 9 through 11 of this Count XI.
- 12. Complainant realleges and incorporates herein paragraph 11 of Count X as paragraph 12 of this Count XI.
- 13. The loss of 1,500 gallons of creosote has caused, threatened or allowed the emission of contaminants so as to cause or tend to cause air pollution in the State.
- 14. By allowing the loss of 1,500 gallons of creosote, Reilly is in violation of Section 9(a) of the Act, 415 ILCS 5/9(a) (2002).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the People of the State of Illinois, respectfully requests that the Board enter an order against the Respondent, Reilly Industries, Inc.:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2002), impose a civil penalty of up to fifty thousand dollars (\$50,000.00) for each violation and an additional penalty of ten thousand (\$10,000.00) for each day during which such violations continued;
- E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2002), award to Complainant its costs and reasonable attorney's fees; and
- F. Granting such other relief as the Board may deem appropriate.

COUNT XII

JULY 4, 2003, WATER POLLUTION HAZARD VIOLATIONS

- 1-4. Complainant realleges and incorporates by reference herein paragraphs 2 through 5 of Count I as paragraphs 1 through 4 of this Count XII.
- 5-7. Complainant realleges and incorporates by reference herein paragraphs 6 through 8 of Count IV as paragraphs 5 through 7 of this Count XII.
- 8-11. Complainant realleges and incorporates by reference herein paragraphs 12 through 15 of Count X as paragraphs 8 through 11 of this Count XII.
- 12. This Count is brought by the People of the State of Illinois by Lisa Madigan, the Attorney General of the State of Illinois, on her own motion and at the request of the Illinois

EPA. The Illinois EPA requested that Reilly waive Section 31 requirements. By letter dated September 12, 2003, Reilly agreed to waive Section 31 requirements.

13. On July 4, 2003, Reilly had a release of approximately 16,000 gallons of crude coal tar from a tank car on Track 2 of the facility. The spill flowed approximately 120 feet to the west and 173 feet to the south of Track 2.

14. Reilly explained to the Illinois EPA that the release occurred from a rail car that had been sitting dormant at the Koppers facility in Henry, South Carolina since April 2001. Reilly had made the decision to remove the car from service and have it cleaned at the Reilly Granite City facility. At some point, the decision was made to load the rail car with crude coal tar before shipping to Granite City facility for cleaning. The rail car was sent from the Koppers facility in South Carolina to Sloss Industries in Birmingham, Alabama and then shipped to Granite City. At the Granite City facility, an operator removed the bottom cap and the valve began to leak. The operator attempted to close the valve, at which point the valve completely failed.

15. The Illinois EPA responded to the release on July 4, 2003, with follow-up inspections on July 7, 2003, July 8, 2003, July 11, 2003, July 21, 2003 and August 5, 2003.

16. Reilly contracted with Onyx Environmental Services ("Onyx") to assist with the clean up. Onyx employed a vacuum truck to collect the spilled liquid.

17. On July 8, 2003, crude coal tar continued to saturate the ballast along the track and liquid had accumulated along the outside walls of the compressor building and lunchroom.

18. As of the Illinois EPA's July 8, 2003, site visit Onyx had recovered approximately 10,000 gallons of coal tar. Two roll-off boxes of contaminated soil/gravel had been excavated.

19. On July 11, 2003, the Illinois EPA beheld Onyx personnel using a King Vac truck to remove the coal tar contaminated ballast along and in between the tracks. Onyx personnel

also employed picks and shovels to assist the King Vac. As of this date, Reilly had generated 7 roll-off containers of coal tar contaminated soil/rock/debris.

20. On July 21, 2003, the Illinois EPA returned to the facility to monitor clean-up activities; Onyx continued to work along the tracks. As of this date, 19 roll-off containers of waste had been excavated during remediation activities.

21. On August 5, 2003, the Illinois EPA reinspected the site; 31 roll-off containers of contaminated soil/gravel had been generated. Reilly reported to the inspector that approximately 12,000 gallons of coal tar and water were recovered. The waste was shipped off-site for disposal as a special waste. The soil affected by this release was remediated to visually clean. No confirmation samples have been taken.

22. Reilly has caused or allowed contaminants to be deposited upon the land in such place and manner as to create a water pollution hazard through its proximity to groundwater.

23. By depositing contaminants upon the land in such place and manner as to create a water pollution hazard, the Defendant has violated Section 12(d) of the Act. 415 ILCS 5/12(d) (2002).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the People of the State of Illinois, respectfully requests that the Board enter an order against the Respondent, Reilly Industries, Inc.:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2002), impose a civil penalty of up to fifty thousand dollars (\$50,000.00) for each violation and an additional penalty of ten thousand (\$10,000.00) for each day during which such violations continued;

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2002), award to Complainant its costs and reasonable attorney's fees; and

F. Granting such other relief as the Board may deem appropriate.

COUNT XIII

JULY 4, 2003, FACILITY MAINTENANCE VIOLATIONS

1-4. Complainant realleges and incorporates by reference herein paragraphs 2 through 5 of Count I as paragraphs 1 through 4 of this Count XIII.

5-7. Complainant realleges and incorporates by reference herein paragraphs 6 through 8 of Count IV as paragraphs 5 through 7 of this Count XIII.

8-9. Complainant realleges and incorporates by reference herein paragraphs 14 and 17 of Count V as paragraphs 8 and 9 of this Count XIII.

10-19. Complainant realleges and incorporates by reference herein paragraphs 12 through 21 of Count XII as paragraphs 10 through 19 of this Count XIII.

20. By failing to maintain and operate a tank car so as to minimize the possibility of any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to soil which could threaten human health, the Respondent has violated Section 725.131 of the Board's Land Pollution Regulations, 35 Ill. Adm. Code 725.131.

21. By violating 35 Ill. Adm. Code 725.131, the Respondent violated Section 21(f) of the Act, 415 ILCS 5/21(f) (2002).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the People of the State of Illinois, respectfully requests that the Board enter an order against the Respondent, Reilly Industries, Inc.:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2002), impose a civil penalty of up to fifty thousand dollars (\$50,000.00) for each violation and an additional penalty of ten thousand (\$10,000.00) for each day during which such violations continued;
- E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2002), award to Complainant its costs and reasonable attorney's fees; and
- F. Granting such other relief as the Board may deem appropriate.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,

LISA MADIGAN
Attorney General
State of Illinois

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

BY: _____
THOMAS DAVIS, Chief
Assistant Attorney General
Environmental Bureau

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Dated: 1/21/03