

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

SEP 09 2004

STATE OF ILLINOIS
Pollution Control Board

THE VILLAGE OF LOMBARD,)
 ILLINOIS, an Illinois)
 municipality corporation,)
)
 Complainant,)
)
 v.)
)
 BILL'S AUTO CENTER,)
 BILL'S STANDARD SERVICE)
 and WILLIAM KOVAR,)
)
 Respondents.)

PCB No. 04-213
(LUSTS - Cost Recovery)

NOTICE OF FILING TO RESPONDENTS

To: Michael J. Maher
Elizabeth S. Harvey
Swanson, Martin & Bell
One IBM Plaza, Suite 3300
Chicago, Illinois 60611

PLEASE TAKE NOTICE that on September 9, 2004, I caused to be filed with the Clerk of the Illinois Pollution Control Board the COMPLAINANT'S FIRST SET OF INTERROGATORIES TO RESPONDENTS and the COMPLAINANT'S FIRST SET OF REQUESTS FOR DOCUMENT PRODUCTION TO RESPONDENTS, true and accurate copies of which are served on you along with this notice.

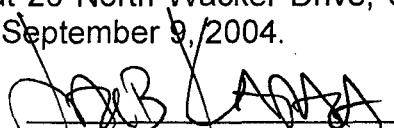


One of Complainant's Attorneys

Dennis G. Walsh
Lance C. Malina
Jacob Karaca
KLEIN, THORPE AND JENKINS, LTD.
20 North Wacker Drive, Suite 1660
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(312) 984-6400
Atty. No. 90446

PROOF OF SERVICE

I, Jacob Karaca, an attorney, certify that I served this Notice of Filing and attachments, by mailing to persons on the Service List above, placed in envelopes, with proper postage pre-paid, addressed to said persons, and depositing the same in the U.S. Mail-chute at 20 North Wacker Drive, Chicago, Illinois 60606-2903, at or before 5:00 p.m. on September 9, 2004.



Jacob Karaca

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PCB No. 04-213
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COMPLAINANT'S FIRST SET OF INTERROGATORIES TO RESPONDENTS

NOW COMES the Claimant, the VILLAGE OF LOMBARD, by and through its attorneys KLEIN THORPE and JENKINS, Ltd., and pursuant to the provisions of the Illinois Pollution Control Board General Provisions, Section 101.616, hereby propounds the following interrogatories to be answered by the Respondents, in writing and under oath on or before October 11, 2004:

DEFINITIONS

1. "Village" shall refer to and include Complainant Village of Lombard, Illinois, or anyone acting at the direction and/or on behalf of Defendant Village of Lombard, Illinois.
2. "Respondents" shall refer to the Respondents Bill's Auto Center, Bill's Standard Service, and William Kovar, either jointly or severally, unless noted otherwise.
3. "The Property" shall refer to the real property commonly known as 330 South Main Street, Lombard, Illinois, owned, operated, used, rented, controlled, or leased by any Respondent.
4. "Tank" or "Tanks" shall refer to the gasoline storage tank or tanks that existed on the Property at any point in time and that relate or may relate to any injuries or damages alleged in the Complaint.

5. "Document" is used in the broadest possible sense and includes every original (and any copy of any original and any copy which differs in any way from any original) of every writing or recording of every kind or description, whether handwritten, typed, drawn, sketched, printed or recorded by any physical, mechanical, electronic or electrical means whatsoever, including, without limitation, books, computer hard drive and/or disks, e-mail transmissions, records, papers, pamphlets, brochures, specifications, correspondence, communications, memoranda, notes, notebooks, worksheets, reports, lists, analysis, appointment of books, diaries, telephone bills, contracts, agreements, instruments, assignment, written memorials of oral communications and tapes and recordings.

6. "Communications" includes all discussions, conversations, interviews, meetings, negotiations, cablegrams, mailgrams, telegrams, telexes, e-mail transmissions, cables, or other forms or written or verbal exchange, however transmitted, including reports, notes, memoranda, lists, agenda, and other documents and records of communications, and when used shall require a statement of the name of the individual who made the communication, the person(s) to whom it was made, and the form in which it was made.

7. As used herein, "all" refers to any and all, and the term "any" likewise refers to any and all.

INTERROGATORIES

1. For each person answering these interrogatories, identify yourself, giving your full name, residence, business address and occupation, and the office you hold with any Respondent.

2. State the full names, last known address, telephone number and job title of any and all persons known to any Respondent who either have or claim to have knowledge of any facts or circumstances relating to the storage, sale, and/or cleanup of gasoline and/or soil on the Property.

3. List all permits and licenses, by any governmental body or agency, obtained by any Respondent related to any work done or planned on the Property relating to the Tanks.

4. With regard to any work done to the Tanks on the Property, disclose any agents, contractors, subcontractors, or any individual or entity performing work at the direction of any Respondent related to the Tanks on the Property, and state the name and address of each such individual and/or entity.

5. State the date, time, and location of all meetings, conversations, or any type of correspondence in which any Respondent or their agents had discussions with officials or representatives of the Village, or any other individual or entity, regarding the Tanks or soil conditions on the Property or any other condition on the Property, and with respect to each conversation or meeting:

- (a) Describe the type of each meeting or conversation (i.e., in person, telephone; conversation, etc.);
- (b) Identify all persons who participated and the nature and substance of each such person's participation; and
- (c) Describe the substance of each such meeting and conversation.

6. Identify all records relating to the Tanks or soil conditions on the Property, including but not limited to contracts, subcontracts, orders, change orders, delivery orders, scheduling documentation, designs, blueprints, drawings, reports, surveys, proposals, plans, bulletins, time sheets, correspondence, field books, diaries, as-builts, progress reports, etc., and for each, identify its current custodian and location.

7. Were any photographs, movies and/or videotapes taken of the Property relating to any problems or work done on the Tanks or the Property's soil conditions? If so, state the date or dates on which such photographs, movies and/or videotapes were taken, the subject thereof, who now has custody of them, and the name, address, occupation and employer of the person taking them.

8. Did any Respondent, or any agent or employee of any Respondent, assemble, sell, distribute, advertise, install, service, repair, maintain, test, remove, or in any way handle any Tank located on or beneath the Property, as defined above? If yes, describe each such action performed on any such Tank by any Respondent, providing:

- (a) The date of the action;
- (b) The individual(s) who performed it;
- (c) Whether said test generated any reports or forms;
- (d) The identity of any reports or forms generated in connection with said action;
- (e) The content of any conclusions reached by the test, inspection, or investigation; and
- (f) A description of any conversations or communications relating to any such testing, inspecting or investigating.

9. State the exact date of manufacture of any Tank on or beneath the Property at any time, and give the address of the plant(s) or factory(ies), which produced said Tanks.

10. Give a complete description of any Tank on or beneath the Property, including: the overall physical dimensions, the storage capacity; the thickness of the sides, base, and top; the materials used, by common name, chemical composition, or any other commonly used industry designations (gauge, type, etc.); and the manner in which the seams were fashioned and secured.

11. State the exact date of installation, repair, and/or removal of any Tank on or beneath the Property, including any work done to clean, replace, or remediate any soil on the Property.

12. Describe the relationship of each Respondent to the Property. And in relation thereto, state the exact date(s) on which each Respondent gained any interest in the Property, and describe in detail the transaction transferring said interest, including the date(s), the consideration provided for the transfer, the amount(s) of any money exchanged, and any information relating to the party from which such interest was transferred.

13. Relating to any transfer of Property referenced in the above Interrogatory, state whether any warranties, indemnifications, bonds, insurance, or other instruments of liability were exchanged, offered, accepted, or agreed upon, written or otherwise. Specifically identify any such indemnification agreements or warranties relating to the environmental condition of the Property, and state the substance of each such warranty or agreement, the conditions under which it applies, the terms which serve to void it, and the length of time it was or has been in effect. Identify any documents that exist relating to any such warranties or agreement(s).

14. Identify any creditor(s) on any loan(s), lien(s), mortgage(s), or any other burden(s) on the Property, and state the date, purpose, and description of each such burden. State the substance of each such burden, the conditions under which the burden was imposed, the terms which serve to void it, and the length of time it was or has been in effect. Identify any documents relating to any such loan(s).

15. Identify any insurance policies relating to the Property, and/or the practice of any business on the Property by any Respondent, providing the date, policy number, and insurance provider of each such policy. State the substance of each such policy, the conditions under which it applies, the terms, which serve to void it, and the length of time it was or has been in effect.

16. Identify any inspections of the Property performed pursuant to any Respondent's acquisition of interest in the Property as stated above, providing the date, the name of the inspector, and whether any report was generated resulting from the inspection.

17. Relating to the spring 1999, removal of five Tanks from the Property instigated by the March 31, 1999 confirmation of a "petroleum release" on the Property, identify all parties involved with said removal in any capacity, including names, addresses, responsibilities, and actions performed. If any of these actions are described or referenced in any document(s), please identify said document(s).

18. Identify with specificity the chemical description and characteristics of any "oily waste water" and/or "sludge" ever cleaned, cleared, and/or removed from the Property resulting from the March 31, 1999 Tank removal, or at any other time. If there have ever been any tests performed on said substances, please identify them by stating the date of the test, the individual, organization, or agency performing the test, and the results of the test.

19. Describe with specificity any "corrective action" ever directed to the Respondents from the Illinois Environmental Protection Agency ("IEPA"). Regarding each such IEPA direction, please identify with specificity each Respondent's actions taken toward fulfilling the IEPA's directions, including the date initiated, the cost to Respondent(s), the completion date, and the information for any agent hired or retained by the Respondents for the purpose of the satisfaction of the IEPA's directions. Please identify all documents relating to this Interrogatory.

20. Identify any investigation done by any individual, corporation or other organization, or agency relating to any potential petroleum leak(s) on the Property at any time. State the date(s), the person(s) responsible for performing the investigation(s), the results of the investigation(s). Identify any documents relating to such investigation(s).

21. Identify any and all persons responsible for conducting or overseeing the testing, integrity, maintenance, repair, installation and/or removal of any Tanks or the cleaning, replacement, or remediation of soil located on the Property within the past ten (10) years.

22. Has any financial audit (internal or external) been performed relating to the Property or any business conducted on the Property within the past ten (10) years? If so, please identify any such audit by the date of the audit, the name of individual, corporation or other organization, or agency that performed the audit, and state whether any report was generated as a result of the audit.

23. Identify any and all vendors from which any Respondent has purchased petroleum, (or for which any Respondent has sold petroleum) over the past ten (10) years, describing the quantities, types, and dates of said purchases and/or deliveries to the Property. Identify any records relating to this Interrogatory.

24. For all periods corresponding with the purchases or deliveries of petroleum to the Property referred to in the previous Interrogatory, list the relevant information and data for all sales of petroleum occurring on the Property, or for petroleum located on the Property, including quantities, types, and dates of said sales.

25. If any person, firm, or corporation has, within the past five years, brought any legal action against any Respondent for similar leaking gasoline storage containers, identify all parties in each such action, state the date on which and the court in which the action was filed, and state the disposition of the case, and identify each person having custody of records relating to the action, and state where and when counsel for the plaintiff may examine these records.

26. Describe in complete detail all "sticking" or volume-measuring tests performed on the Tanks on the Property for purposes of gasoline inventory reconciliation within the past ten (10) years to determine whether there were any leaks in the Tanks.

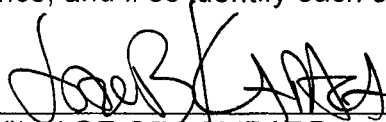
27. Identify each "third party" responsible for costs or damages, as identified in Respondents' Affirmative Defense number 1, and describe how each such other person caused or contributed to the damages in this suit. Identify any records associated with this Interrogatory.

28. Identify with specificity any statutes, ordinances, facts, opinions, standards, comparisons, data, or any other information relied upon by Respondents in claiming that the damages and costs incurred by Claimant are or were "excessive" and/or "not recoverable" from Respondents, as asserted in Respondents' Affirmative Defense number 2. Identify any records associated with this Interrogatory.

29. Identify with specificity any statutes, ordinances, facts, opinions, standards, comparisons, data, or any other information relied upon by Respondents in asserting in Respondents' Affirmative Defenses numbers 3 - 6.

30. Provide the name, current or last known address and telephone number of each independent expert witness or controlled expert witness, (as those terms are defined in Illinois Supreme Court Rule 213), who will offer any expert testimony for, or on behalf of, any Respondent at any hearing of this case and state:

- (a) The subject matter on which the expert witness is expected to testify;
- (b) The conclusions and/or opinions of the expert witness and the basis of said conclusions and/or opinions, including reports of the witness, if any;
- (c) The qualifications of each expert witness, including a curriculum vitae and/or resume, if any; and
- (d) Whether there are any written reports of any expert witness regarding this occurrence, and if so identify each such report.


VILLAGE OF LOMBARD

Dated: September 9, 2004.

Dennis G. Walsh
Lance C. Malina
Jacob Karaca
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20 North Wacker Drive, #1660
Chicago, Illinois 60606
(312) 984-6400
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COMPLAINANT'S FIRST SET OF REQUESTS FOR DOCUMENT PRODUCTION TO RESPONDENTS

NOW COMES the Claimant, the VILLAGE OF LOMBARD, by and through its attorneys KLEIN THORPE and JENKINS, Ltd., and pursuant to the provisions of the Illinois Pollution Control Board General Provisions, Section 101.616, hereby propounds the following document requests to be answered by the Respondents, in writing and under oath on or before October 11, 2004:

DEFINITIONS

1. "Village" shall refer to and include Complainant Village of Lombard, Illinois, or anyone acting at the direction and/or on behalf of Defendant Village of Lombard, Illinois.
2. "Respondents" shall refer to the Respondents Bill's Auto Center, Bill's Standard Service, and William Kovar, either jointly or severally, unless noted otherwise.
3. "The Property" shall refer to the real property commonly known as 330 South Main Street, Lombard, Illinois, owned, operated, used, rented, controlled, or leased by any Respondent.
4. "Tank" or "Tanks" shall refer to the gasoline storage tank or tanks that existed on the Property at any point in time and that relate or may relate to any injuries or damages alleged in the Complaint.

5. "Document" is used in the broadest possible sense and includes every original (and any copy of any original and any copy which differs in any way from any original) of every writing or recording of every kind or description, whether handwritten, typed, drawn, sketched, printed or recorded by any physical, mechanical, electronic or electrical means whatsoever, including, without limitation, books, computer hard drive and/or disks, e-mail transmissions, records, papers, pamphlets, brochures, specifications, correspondence, communications, memoranda, notes, notebooks, worksheets, reports, lists, analysis, appointment of books, diaries, telephone bills, contracts, agreements, instruments, assignment, written memorials of oral communications and tapes and recordings.

6. "Communications" includes all discussions, conversations, interviews, meetings, negotiations, cablegrams, mailgrams, telegrams, telexes, e-mail transmissions, cables, or other forms or written or verbal exchange, however transmitted, including reports, notes, memoranda, lists, agenda, and other documents and records of communications, and when used shall require a statement of the name of the individual who made the communication, the person(s) to whom it was made, and the form in which it was made.

7. As used herein, "all" refers to any and all, and the term "any" likewise refers to any and all.

REQUESTS TO PRODUCE

1. Any and all documents, objects or tangible things that refer or relate in any way to any of the allegations of the Complaint for Cost Recovery, the Respondents' Answer, and the Respondents' Affirmative Defenses.

2. Any and all documents which reflect, describe or refer to any damages sustained by Complainant in this case, including but not limited to all receipts, expense reports, databases, invoices, notes, memoranda, or any other related documents.

3. Any statement given by any party (or agent or employee of any party) to this lawsuit, or any other lawsuit related to the occurrence, or any and all documents which contain, refer to or describe any statement given by any party (or agent or employee of any party) to this lawsuit, to any person, other than its, his, or her attorney, relating to any claim, fact or allegation contained in the Answer or the Affirmative Defenses.

4. Any and all witness statements, and any and all transcripts, records, recordings, notes, memoranda or other documents of interviews with any witnesses to any occurrences related to the Tanks or soil on the Property, and any persons present before, during, or after occurrences related to any work, tests, cleanups, or other actions concerning the Tanks or soil on the Property, and persons who have knowledge of any such actions and persons who have knowledge of any of the assertions and allegations of the Answer and/or the Affirmative Defenses.

5. Any and all statements, transcripts, records, notes, memoranda or other documents of interviews or depositions with persons who have or claim to have knowledge related to any work, tests, cleanups, or other actions concerning the Tanks or soil on the Property.

6. Any and all photographs, slides, diagrams, motion pictures, audio recordings, videotapes or other reproductions reflecting or depicting any negotiation, contract execution, communications, or labor relating to any work, tests, cleanups, or other actions concerning the Tanks or soil on the Property.

7. Any and all records relating to any work, tests, cleanups, or other actions concerning the Tanks or soil on the Property, including but not limited to subcontracts, orders, change orders, delivery orders, scheduling documentation, designs, blueprints, drawings, reports, surveys, proposals, plans, bulletins, time sheets, correspondence, field books, diaries, as-builts, progress reports, etc.

8. Any and all correspondence, in whatever form, between any Respondent and any federal, state, or local bodies or agencies, for the past ten (10) years.

9. Any and all documents supporting in any way the assertions in Respondents' Affirmative Defense number 1.

10. Any and all documents supporting in any way the assertions in Respondents' Affirmative Defense number 2.

11. Any and all documents supporting in any way the assertions in Respondents' Affirmative Defense number 3.

12. Any and all documents supporting in any way the assertions in Respondents' Affirmative Defense number 4.

13. Any and all documents supporting in any way the assertions in Respondents' Affirmative Defense number 5.

14. Any and all documents supporting in any way the assertions in Respondents' Affirmative Defense number 6.

15. Any photographs, movies and/or videotapes taken of the property related to any work, tests, cleanups, or other actions concerning the Tanks or soil on the Property.

16. Reports of any tests, inspections, or investigations of the Property or the Tanks or soil on the Property undertaken by Lincoln, its agents or employees.

17. Any and all documents, exhibits or evidence which any Respondent intends to use at any deposition or at the trial of this cause.

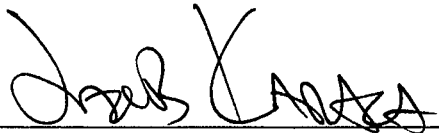
18. Copies of the curriculum vitae, resume or description of the credentials for each and every opinion witness, independent expert witness, or controlled expert witness to be called at hearing by the Respondents.

19. Any and all reports of any opinion witness, independent expert witness or controlled expert witness to be called at hearing by Respondents.

20. Any and all correspondence to or from any opinion witness, independent expert witness or controlled expert witness relating to this case to be called at trial by Respondents.

21. Copies of Respondents' State and Federal Income Tax Returns for the years 1994 - present.

22. Provide an affidavit signed by each Respondent, or representative, stating whether the production of documents is complete in accordance with the above document requests.


VILLAGE OF LOMBARD

Dated: September 9, 2004.

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