

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

SEP 21 2004

PEOPLE OF THE STATE OF ILLINOIS,)

Complainant,)

v.)

OMRON AUTOMOTIVE ELECTRONICS, INC.,)
a Delaware corporation,)

Respondent.)

PCB No. ⁶⁵⁵⁶ 04-
(Enforcement - Air)

STATE OF ILLINOIS
Pollution Control Board

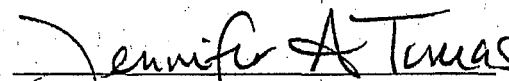
NOTICE OF FILING

To: See Attached Service List.

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Pollution Control Board Complainant's Complaint for Civil Penalties, a copy of which is herewith served upon you.

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.

LISA MADIGAN
Attorney General
State of Illinois


JENNIFER A. TOMAS

September 21, 2004

Jennifer A. Tomas
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STATE OF ILLINOIS
Pollution Control Board

05-56
PCB No. 04-
(Enforcement - Air)

COMPLAINT FOR CIVIL PENALTIES

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA
MADIGAN, Attorney General of the State of Illinois, complains of
Respondent, OMRON AUTOMOTIVE ELECTRONICS, INC., a Delaware
corporation, as follows:

COUNT I
CONSTRUCTING AIR EMISSION SOURCES WITHOUT A PERMIT

1. This complaint is brought on behalf of the People of
the State of Illinois, by Lisa Madigan, Attorney General of the
State of Illinois, on her own motion and at the request of the
Illinois Environmental Protection Agency ("Illinois EPA").

2. The Illinois EPA is an administrative agency of the
State of Illinois, created pursuant to Section 4 of the Illinois
Environmental Protection Act ("Act"), 415 ILCS 5/4 (2002), and
is charged, *inter alia*, with the duty of enforcing the Act.

3. This complaint is brought pursuant to Section 31 of
the Act, 415 ILCS 5/31 (2002), and is an action for civil

penalties.

4. At all times relevant to this Complaint, Omron Automotive Electronics, Inc. ("Omron") was and is a Delaware corporation. Omron's Illinois foreign business corporation status was revoked in 1999 for failure to submit an Annual Report for 1998. Therefore, Omron has been operating its business despite not being licensed to do so in Illinois since 1999.

5. Omron manufactures circuit boards for the automotive industry at its facility located at 3790 Ohio Avenue, St. Charles, Kane County, Illinois ("Site").

6. Omron applies coatings to plastic parts on circuit boards. This process involves regulated emissions of volatile organic materials ("VOM") such as inks, flux, coatings, thinners, epoxy and clean-up solvent. Emission sources at the facility include the ICC Department (electric curing oven, spray fluxer, chip/wave soldering and pencil soldering), the ECU Department (four soldering stations, urethane coating station/electric curing oven, two stamping stations and UV marking/curing), the Relay Department (three coil winding/flux/soldering stations, three flux/soldering stations, two epoxy sealing/curing ovens and three UV marking/curing stations), and solvent clean-up operations.

7. On April 5, 1996, Omron was issued Operating Permit

Number 95100061, authorizing operation of the emission sources listed in paragraph 6, above. That permit expired on April 5, 2001.

8. Omron was then issued Lifetime Operating Permit No. 95100061 on October 24, 2001 ("Permit No. 95100061"). That permit allowed Omron to operate emission units consisting of the ICC Department (spray fluxer and electric curing oven), ECU Department (urethane coating station, 2 stamping stations, UV marking/curing station and electric curing oven), and Relay Department (3 coil winding/flux stations, 3 flux stations, 2 epoxy sealing/curing ovens and 3 UV marking curing stations.

9. On December 29, 2003, Omron's Lifetime Operating Permit No. 95100061 was revised ("Revised Permit No. 95100061"). The revised permit no. 95100061 permitted Omron to operate emission units consisting of soldering flux application, conformal coating application, product marking, metal stamping and clean-up operations.

10. Section 9(b) of the Act, 415 ILCS 5/9(b) (2002), provides in pertinent part as follows:

No person shall:

* * *

(b) 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 Agency, or in violation of any conditions imposed by such permit;

11. Sections 3.115, 3.165 and 3.315 of the Act, 415 ILCS 5/3.115, 5/3.165 and 5/3.315 (2002), provide the following definitions, respectively:

"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.

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

"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.

12. Omron is a "person" as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2002).

13. VOM is a "contaminant" as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2002).

14. Section 201.142 of the Illinois Pollution Control Board ("Board") Air Pollution Regulations, 35 Ill. Adm. Code 201.142, provides as follows:

Construction Permit Required

No person shall cause or allow the construction of any new emission source or any new air pollution control equipment, or cause or allow the modification of any existing emission source or air pollution control equipment, without first obtaining a construction

permit from the Agency, except as provided in Sections 201.146 or Section 201.170(b) of this Part.

15. Section 201.102 of the Board Air Pollution

Regulations, 35 Ill. Adm. Code 201.102, provides as follows:

"Construction": Commencement of on-site fabrication, erection or installation of an emission source or of air pollution control equipment.

"Emission Source": Any equipment or facility of a type capable of emitting specified air contaminants to the atmosphere.

"New Emission Source": Any emission source, the construction or modification of which is commenced on or after April 14, 1972.

"Specified Air Contaminant": any air contaminant as to which this Subtitle contains emission standards or other specific limitations and any contaminant regulated in Illinois pursuant to Section 9.1 of the Act.

16. VOM is a "specified air contaminant" as that term is defined in Section 201.102 of the Board Air Pollution Regulations.

17. Omron replaced and/or upgraded coating lines throughout the Site between 1996 and 2003. The Site consists of emission sources and/or process emission units capable of emitting VOM and therefore Omron "constructed" "new emission sources" as these terms are defined by Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102.

18. Omron failed to obtain required construction permit(s) from the Illinois EPA prior to constructing the new emission

sources at the Site.

19. Omron's new emission sources were not exempted from the State permitting requirements by the Illinois EPA pursuant to Section 201.146 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.146.

20. By constructing new emission sources without obtaining any construction permits from the Illinois EPA, Omron violated Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142, and thereby, violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2002).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, OMRON AUTOMOTIVE ELECTRONICS, INC., for the following relief:

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

2. Finding that Respondent has violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2002), and Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142;

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

4. Taxing all costs in this action, including attorney, expert witness and consultant fees, against the Respondent; and

5. Granting such other relief as the Board deems appropriate and just.

COUNT II

FAILURE TO OBTAIN OPERATING PERMITS FOR NEW EMISSION SOURCES

1-17. Complainant realleges and incorporates by reference herein paragraphs 1 through 13, 15 through 17, and paragraph 19 of Count I as paragraphs 1 through 17 of this Count II.

18. Section 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.143, provides as follows:

Operating Permits for New Sources

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. Applications for operating permits shall be made at such times and contain such information (in addition to the information required by Section 201.157 as shall be specified in the construction permit.

19. Between 1996 and 2003, on dates better known to Omron, Omron replaced existing emission equipment at its Site with similar equipment. The replacement equipment was capable of greater amounts of emissions than the existing equipment.

20. From 1996 through 2003, on dates better known to

Omron, Omron operated the new emission sources at the Site without obtaining an operating permit from the Illinois EPA.

21. Omron, by its actions and omissions as alleged herein, violated Section 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.143, and thereby, violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2002).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, OMRON AUTOMOTIVE ELECTRONICS, INC., for the following relief:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2002), and Section 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.143;
3. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of the Act and pertinent regulations, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
4. Taxing all costs in this action, including attorney, expert witness and consultant fees, against the Respondent; and
5. Granting such other relief as the Board deems appropriate and just.

COUNT III
FAILURE TO OBTAIN A CLEAN AIR ACT PERMIT PROGRAM (CAAPP)
PERMIT

1-16. Complainant realleges and incorporates by reference herein paragraphs 1 through 9, 11 through 13, 15 through 17, and paragraph 19 of Count I as paragraphs 1 through 16 of this Count III.

17. Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b)(2002), provides in pertinent part as follows:

6. Prohibition

* * *

b. ... no person shall operate a CAAPP source without a CAAPP permit unless the complete CAAPP permit or renewal application for such source has been timely submitted to the Agency.

18. Section 39.5(1) of the Act, 415 ILCS 5/39.5(1)(2002), provides the following definitions:

"CAAPP" means the Clean Air Act Permit Program, developed pursuant to Title V of the Clean Air Act.

~~"CAAPP Permit" or "permit" (unless the context suggests otherwise)~~ means any permit issued, renewed, amended, modified or revised pursuant to Title V of the Clean Air Act.

"Source" means any stationary source (or any group of stationary sources) that are located on one or more contiguous or adjacent properties that are under common control of the same person (or persons under common control) and that belongs to a single major industrial grouping.

"Owner or operator" means any person who owns, leases, operates, controls, or supervises a stationary source.

"Stationary source" means any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any pollutant listed under Section 112(b) of the Clean Air Act.

"Regulated air pollutant" means the following:

- (1) Nitrogen oxides (NOx) or any volatile organic compound.

19. Section 39.5(2) of the Act, 415 ILCS 39.5(2) (2002), provides in pertinent part as follows:

2. Applicability.

a. Sources subject to this Section shall include:

i. Any major source as defined in paragraph (c) of this subsection.

* * *

c. For purposes of this Section the term "major source" means any source that is:

* * *

iii. A major stationary source as defined in part D of Title I of the Clean Air Act including:

A. For ozone nonattainment areas, sources with the potential to emit 100 tons or more per year of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate", . . . 25 tons or more per year in areas classified as "severe", . . .

20. The Illinois EPA Rules pertaining to the Clean Air Act Permit Program ("CAAPP") Procedures, 35 Ill. Adm. Code Part 270

et seq., became effective on January 4, 1994. The Title V program - the statutory provision of 415 ILCS 5/39.5 - was approved by the United States Environmental Protection Agency ("USEPA") in its final interim approval. The effective date of the interim approval was March 7, 1995.

21. Section 270.107 of the Illinois EPA Rules, 35 Ill. Adm. Code 270.107, entitled "Applicability", provides as follows:

This Part applies to the owner or operator of any source required to have an operating permit pursuant to Section 39.5 of the Act.

22. Section 39.5(5) (x) of the Act, 415 ILCS 5/39.5(5) (x) (2002), provides as follows:

x. The owner or operator of a new CAAPP source shall submit its complete CAAPP application consistent with this subsection within 12 months after commencing operation of such source. The owner or operator of an existing source that has been excluded from the provisions of this Section under subsection 1.1 or subsection 3(c) of this Section and that becomes subject to the CAAPP solely due to a change in operation at the source shall submit its complete CAAPP application consistent with this subsection at least 180 days before commencing operation in accordance with the change in operation.

23. The equipment described in paragraph 6 of Count I of this Complaint emits or may emit VOM, a regulated air pollutant as defined by Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (2002).

24. From 1995 to approximately 2002, Omron was excluded

from the CAAPP requirement pursuant to 39.5(1.1) and 39.5(3)(c) of the Act, 415 ILCS 5/39.5(1.1) and (3)(c)(2002), because its potential to emit was less than 25 tons pursuant to Section 39.5(2)(c)(iii)(A), 415 ILCS 5/39.5(2)(c)(iii)(A)(2002).

25. However, beginning in approximately June 2002, or a date better known to Omron, Omron increased its potential emissions to greater than 25 tons per year.

26. Omron's Site emits a regulated air pollutant and, therefore, is a stationary source, as that term is defined in Section 39.5(1) of the Act, 415 ILCS 5/39.5(1)(2002).

27. Omron operates a stationary source and is an owner or operator, as that term is defined in Section 39.5(1) of the Act, 415 ILCS 5/39.5(1)(2002).

28. The Omron Site is located in a severe nonattainment area for ozone and has the potential to emit VOM in excess of 25 tons per year.

29. As such, the Site is a major stationary source, as that term is defined in Section 39.5(2)(c)(iii)(A) of the Act, 415 ILCS 39.5(2)(c)(iii)(A)(2002). Therefore, the CAAPP, set forth in Section 39.5 of the Act, 415 ILCS 5/39.5 et seq. (2002), and 35 Ill. Adm. Code 270.107, the corresponding Part 270 Illinois EPA Rules, 35 Ill. Adm. Code 270 et seq., pursuant to Section 270.107 of the Illinois EPA Rules, 35 Ill. Adm. Code 270.170, are applicable to the Omron Site.

30. Section 270.103 of the Illinois EPA Rules, 35 Ill. Adm. Code 270.103, contains the following definition:

Existing CAAPP Source

"Existing CAAPP source" means a CAAPP source that commenced operation prior to the effective date of the CAAPP.

31. The Omron Site is an existing CAAPP source as that term is defined in Section 270.103 of the Illinois EPA Rules, 35 Ill. Adm. Code 270.103.

32. As the owner or operator of an existing source that had been excluded from the CAAPP permit provisions and that become subject to the CAAPP solely due to a change in operation, Omron was required to submit its complete CAAPP application at least 180 days before commencing operation in accordance with the change in operation, pursuant to Section 39.5(5)(x) of the Act, 415 ILCS 5/39.5(5)(x)(2002).

33. Omron was required to submit its CAAPP application by December 2001. Omron did not submit its CAAPP application until February 10, 2004. To date, Omron continues to operate without the required CAAPP permit.

34. Because the above-referenced CAAPP application was untimely, Omron did not receive a "shield" from the requirement to operate under a CAAPP permit during the Illinois EPA's review of the application. Accordingly, from at least December 2001 through the filing date of this Complaint, Omron has operated a

CAAPP source without timely submitting a complete CAAPP permit application and obtaining a CAAPP permit, pursuant to Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b)(2002).

35. By not timely submitting a complete CAAPP permit prior to operating a facility that is regulated by the provisions of the CAAPP and by operating a facility without the requisite CAAPP permit, Omron violated Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b)(2002).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, OMRON AUTOMOTIVE ELECTRONICS, INC., for the following relief:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b)(2002);
3. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of the Act and pertinent regulations, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
4. Taxing all costs in this action, including attorney, expert witness and consultant fees, against the Respondent; and
5. Granting such other relief as the Board deems

appropriate and just.

COUNT IV
VIOLATION OF OPERATING PERMIT CONDITIONS

1-13. Complainant realleges and incorporates by reference herein paragraphs 1 through 13 of Count I as paragraphs 1 through 13 of this Count IV.

14. Condition 3 of Permit No. 95100061, issued to Omron Automotive Electronics, Inc. on October 24, 2001, provides as follows:

Emissions and operation of ICC, ECU, and Relay Departments shall not exceed the following limits:

<u>Material</u>	<u>VOM Usage</u>		<u>VOM Emissions</u>	
	<u>(Lb/Month)</u>	<u>(Lb/Year)</u>	<u>(Lb/Month)</u>	<u>(Lb/Year)</u>
Inks	5	40	5	0.02
Flux	610	6,100	610	3.05
Coatings	36	360	36	0.18
Thinners	1,030	10,300	1,030	5.15
Epoxy	42	420	42	0.21
Clean-Up Solvent	712	7,120	712	3.56
			TOTAL	12.17

These limits are based on complete volatilization of the VOM content of the materials, material VOM usage = ~~material usage x material VOM content, maximum~~ material usage rates, and the information provided in the permit application. Compliance with annual limits shall be determined from a running total of 12 months of data.

15. Beginning in approximately 2000, on a date better known to Omron, Omron began exceeding the monthly usage limits of its inks, flux, and thinners under Permit No. 95100061. These exceedances continued until Omron obtained its revised

permit on December 29, 2003.

16. Omron, by its acts and omissions alleged herein, violated Condition 3 of Permit No. 95100061.

17. Condition 5 of Permit No. 95100061 provides as follows:

The Permittee shall maintain the following records:

a. Name, usage (lb/month and lb/year), VOM and HAP content (% wt or lb/gallon), and VOM and HAP emissions (lb/month and tons/year) for each of the following:

- i. Inks;
- ii. Coatings;
- iii. Flux;
- iv. Thinner
- v. Epoxy; and
- vi. Clean-up solvents.

18. For a period of time best known to Omron, Omron failed to keep required records of the name and usage, VOM and HAP content, and emissions from inks, coatings, flux, thinners, stamping oils, and clean-up solvents used at the Site in a form required by its permit.

19. Omron, by its acts and omissions alleged herein, violated Condition 5 of Permit No. 95100061.

20. Condition 7 of Permit No. 95100061 provides as follows:

If there is an exceedance of the requirements of this permit as determined by the records required by this permit, the Permittee shall submit a report to the Illinois EPA's Compliance Section in Springfield, Illinois within 30 days after the exceedance. The

report shall include the emissions released in accordance with the recordkeeping requirements, a copy of the relevant records, and a description of the exceedance or violation and efforts to reduce emissions and future occurrences.

21. Beginning in approximately 2000, on a date better known to Omron, Omron began exceeding its monthly permit limits under Permit No. 95100061 for VOM emissions. Omron discovered those violations in approximately August 2002, as a result of an internal compliance audit. Omron failed to report the above-referenced exceedances to the Illinois EPA when they were first discovered. Omron reported the exceedances to the Illinois EPA on May 2, 2003.

22. Omron, by its acts and omissions alleged herein, violated Condition 7 of Permit No. 95100061.

23. Condition 9 of Permit No. 95100061 provides as follows:

Persons with lifetime operating permits must obtain a revised permit for any of the following changes at the source:

-
- a. An increase in emissions above the amount the emission unit or source is permitted to emit;
 - b. A modification;
 - c. A change in operations that will result in the source's noncompliance with conditions in the existing permit; or
 - d. A change in ownership, company name, or address, so that the application or existing permit is no longer accurate.

24. As early as 2000, Omron began increasing its emissions above its permitted limits under Permit No. 95100061. At that time, Omron failed to obtain a revised permit from the Illinois EPA. In addition, Omron replaced and/or added equipment to its facility without obtaining a new permit from the Illinois EPA. Omron did not obtain a revised permit that accurately reflected emissions from and equipment at its facility until receiving its Revised Permit No. 95100061 on December 29, 2003.

25. Omron, by its acts and omissions alleged herein, violated Condition 9 of Permit No. 95100061.

26. As a person who, from approximately 2000 through 2003, on dates better known to Omron, operated a Site which included equipment capable of causing or contributing to air pollution, in violation of conditions imposed by Permit No. 95100061, Omron violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2002).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, OMRON AUTOMOTIVE ELECTRONICS, INC., for the following relief:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2002), and Conditions 3, 5, 7, and 9 of Lifetime Operating Permit No. 95100061;

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

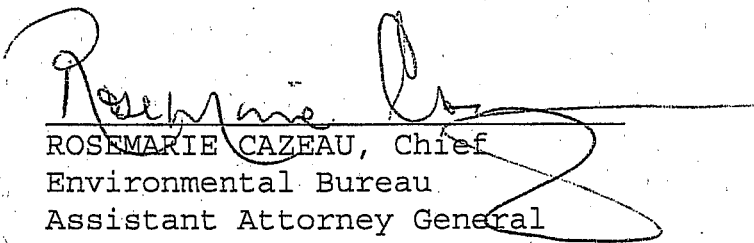
4. Taxing all costs in this action, including attorney, expert witness and consultant fees, against the Respondent; and

5. Granting such other relief as the Board deems appropriate and just.

PEOPLE OF THE STATE OF ILLINOIS,
by LISA MADIGAN, Attorney
General of the State of Illinois

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

By:


ROSEMARIE CAZEAU, Chief
Environmental Bureau
Assistant Attorney General

Of Counsel:

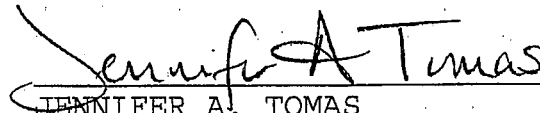
Jennifer A. Tomas
Assistant Attorney General
Environmental Bureau
188 W. Randolph Street, Suite 2001
Chicago, Illinois 60601
(312) 814-0609

CERTIFICATE OF SERVICE

I, the undersigned, certify that I have served the attached Complaint for Civil Penalties, by U.S. Certified Mail (return receipt requested), upon the following persons:

Richard M. Saines, Esq.
Baker & McKenzie
One Prudential Plaza, Suite 3500
130 East Randolph Drive
Chicago, Illinois 60601

Maureen Wozniak
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
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