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JAN 25 2005

STATE OF ILLINOIS  
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

Lisa Madigan  
ATTORNEY GENERAL

January 21, 2005

PCB05-BS9

The Honorable Dorothy Gunn  
Illinois Pollution Control Board  
James R. Thompson Center, Ste. 11-500  
100 West Randolph  
Chicago, Illinois 60601

Re: ***People v. Bath Incorporated***

Dear Clerk Gunn:

Enclosed for filing please find the original and ten copies of a NOTICE OF FILING, COMPLAINT and APPEARANCE in regard to the above-captioned matter. Please file the originals and return file-stamped copies of the documents to our office in the enclosed, self-addressed envelope.

Thank you for your cooperation and consideration.

Very truly yours,

James L. Morgan  
Environmental Bureau  
500 South Second Street  
Springfield, Illinois 62706  
(217) 782-9031

JLM/pp  
Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD  
MACON COUNTY, ILLINOIS

RECEIVED  
CLERK'S OFFICE

JAN 25 2005

PEOPLE OF THE STATE OF )  
ILLINOIS, )  
 )  
Complainant, )  
 )  
vs. )  
 )  
BATH INCORPORATED, )  
an Illinois corporation, )  
 )  
Respondent. )

STATE OF ILLINOIS  
Pollution Control Board

PCB No. 05-139

NOTICE OF FILING

To: Margaret B. Cuttill  
Registered Agent  
695 South Crea Street  
Decatur, IL 62522

PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois, a COMPLAINT, a copy of which is attached hereto and 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 this 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.

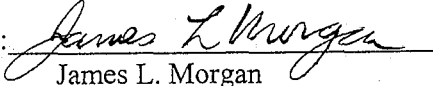
FURTHER, please take notice that financing may be available, through the Illinois Environmental Facilities Financing Act, 20 ILCS 3515/1 (2004), to correct the pollution alleged in the Complaint filed in this case.

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:   
James L. Morgan  
Assistant Attorney General  
Environmental Bureau

500 South Second Street  
Springfield, Illinois 62706  
217/524-7506

Dated: *January 20, 2005*

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED  
CLERK'S OFFICE

JAN 25 2005

STATE OF ILLINOIS  
Pollution Control Board

PEOPLE OF THE STATE OF )  
 ILLINOIS, )  
 )  
 Complainant, )  
 )  
 vs. )  
 )  
 BATH INCORPORATED, )  
 an Illinois corporation, )  
 )  
 Respondent. )

PCB No. 05-139

ENTRY OF APPEARANCE

On behalf of the Complainant, PEOPLE OF THE STATE OF ILLINOIS, James L. Morgan, Assistant Attorney General of the State of Illinois, hereby enters his appearance as attorney of record.

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: James L. Morgan  
James L. Morgan  
Environmental Bureau  
Assistant Attorney General

500 South Second Street  
Springfield, Illinois 62706  
217/524-7506  
Dated: January 20, 2005

**CERTIFICATE OF SERVICE**

I hereby certify that I did on January 4, 2004, send by certified 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 NOTICE OF FILING, ENTRY OF APPEARANCE and COMPLAINT:

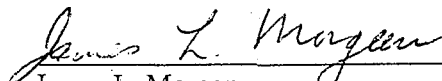
To: Margaret B. Cuttill  
Registered Agent  
695 South Crea Street  
Decatur, IL 62522

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  
James R. Thompson Center  
Suite 11-500  
100 West Randolph  
Chicago, Illinois 60601

and one copy by First Class Mail with postage thereon fully prepaid of the same foregoing instrument(s)

To: The Honorable Jack W. Ahola  
State's Attorney  
Macon County Courts Facility  
253 East Wood Street  
Decatur, Illinois 62523-1408

  
James L. Morgan  
Assistant Attorney General

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD  
MACON COUNTY, ILLINOIS

RECEIVED  
CLERK'S OFFICE

JAN 25 2005

PEOPLE OF THE STATE OF ILLINOIS, )  
Complainant, )

v. )

BATH INCORPORATED, an Illinois )  
corporation, )  
Respondent. )

PCB NO. 05 139  
(Cost Recovery)

STATE OF ILLINOIS  
Pollution Control Board

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, BATH INCORPORATED, as follows:

1. This Complaint is brought by the Attorney General on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), pursuant to the terms and provisions of Title VIII (Sections 30-34) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/30-34 (2002).

2. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2002), and charged, *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board ("Board").

3. This Complaint is brought pursuant to Section 22.2(f)-(k) of the Act, 415 ILCS 5/22.2(f)-(k) (2002).

4. Respondent, Bath Incorporated, is an Illinois corporation in good standing and authorized to do business in the State of Illinois. At all times relevant to this Complaint, the Respondent has been the operator of a landfill located at 901 Walnut Street, in Decatur, Macon County, Illinois.

5. During operation of the Landfill, a variety of wastes were disposed of at the Landfill. These wastes and other materials include hazardous substances as defined by Section 3.215 of the Act, 415 ILCS 5/3.215 (2002).

6. For a period of time prior to 2002, contaminants, including hazardous substances, present in the wastes disposed of at the Landfill have leached, escaped, and leaked from the Landfill into adjacent surface waters and ground water underneath and around the Landfill and onto and into the land surface and subsurface strata around and underneath the Landfill.

7. Section 22.2 of the Act, 415 ILCS 5/22.2 (2002), provides that:

\* \* \*

f. Notwithstanding any other provision or rule of law, and subject only to the defenses set forth in subsection (j) of this Section, the following persons shall be liable for all costs of removal or remedial action incurred by the State of Illinois or any unit of local government as a result of a release or substantial threat of a release of a hazardous substance or pesticide:

1. the owner and operator of a facility or vessel from which there is a release or substantial threat of a release of a hazardous substance or pesticide;

2. any person who at the time of disposal, transport, storage or treatment of a hazardous substance or pesticide owned or operated the facility or vessel used for such disposal, transport, treatment or storage from which there was a release or substantial threat of a release of a hazardous substance or pesticide;

3. any person who by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of such hazardous substances owned or possessed by such person, by any other party or entity, at any facility, \* \* \*, owned or operated by another party or entity and containing such hazardous substances,

\* \* \*

8. On May 13, 2002, Illinois EPA sent Respondent a notice pursuant to Section 4(q) of the Act, 415 ILCS 5/4(q) (2002) requesting that it perform identified remedial actions at the Facility. Respondent declined.

9. The State has incurred and will continue to incur response costs, as defined by the Act, associated with the releases and threatened releases of hazardous substances at the Facility.

10. The Respondent is a responsible party as described in Section 22.2(f)(1)-(2) of the Act, 415 ILCS 4/22.2(f)(1)-(2), and is liable for past, present, and future response costs, as defined by the Act, incurred by the State resulting or arising out of the releases and threatened releases at the Landfill.

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent,

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

B. Finding the Respondent, Bath Incorporated, to be liable for past, present, and future removal costs, as defined by the Act, incurred by the Illinois EPA as a result of the releases and threatened releases of hazardous substances at the Facility;

C. Finding Respondent, Bath Incorporated, to be liable for damages equal to three times the past, present, and future removal costs, as defined by the Act, incurred by the Illinois EPA as a result of the releases and threatened releases of hazardous substances at the Facility; because of the Respondent's refusal to perform the work set forth in the Section 4(q) notice issued by Illinois EPA;

D. Awarding to Complainant its costs; and

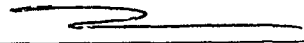


E. Granting such other relief as the Board may deem appropriate.

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:   
THOMAS DAVIS, Chief  
Environmental Bureau  
Assistant Attorney General

Of Counsel  
James L. Morgan  
Assistant Attorney General  
500 South Second Street  
Springfield, Illinois 62706  
217/524-7506  
Dated: January 20, 2005