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STATE OF ILLINOIS  
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

Lisa Madigan  
ATTORNEY GENERAL

February 1, 2005

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 SECOND SUPPLEMENTAL COMPLAINT and SECOND 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 envelope.

Thank you for your cooperation and consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read "Tom Davis", is written over a horizontal line.

Tom Davis, Chief  
Environmental Bureau  
500 South Second Street  
Springfield, Illinois 62706  
(217) 782-9031

TD/pp  
Enclosures

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FEB 03 2005

STATE OF ILLINOIS  
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

PCB No. 03-182  
(Enforcement)

NOTICE OF FILING

To: Thomas G. Safley  
Hodge Dwyer Zeman  
3150 Roland Avenue  
P.O. Box 5776  
Springfield, IL 62705-5776

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 SECOND SUPPLEMENTAL COMPLAINT and SECOND 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: \_\_\_\_\_  
THOMAS DAVIS, Chief  
Assistant Attorney General  
Environmental Bureau

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: February 1, 2005

**CERTIFICATE OF SERVICE**

I hereby certify that I did on February 1, 2005, 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 NOTICE OF FILING, COMPLAINANT'S MOTION TO FILE SECOND SUPPLEMENTAL COMPLAINT and SECOND SUPPLEMENTAL COMPLAINT

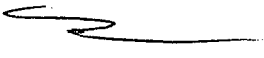
To: Thomas G. Safley  
Hodge Dwyer Zeman  
3150 Roland Avenue  
P.O. Box 5776  
Springfield, IL 62705-5776

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

  
\_\_\_\_\_  
THOMAS DAVIS, Chief  
Environmental Bureau  
Assistant Attorney General

This filing is submitted on recycled paper.

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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 SECOND 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 initial Complaint, the Complainant was informed of the violations now pleaded within Counts XII and XIII, and was granted leave to amend the Complaint. Recently, the Attorney General's Office received another enforcement referral from the Illinois EPA regarding an incident at the Reilly facility on January 28, 2004. Additionally, due to the Respondent's Answer and pending settlement negotiations, information has become available regarding the accuracy of the current pleadings. In the interests of administrative efficiency, the inclusion of an additional count of alleged violations within the pending enforcement proceeding and the modification of previously pleaded factual allegations are necessary. The additional claims arose out of occurrences that took place after the filing of the amended 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, after the latter has satisfied the requirements of Section 31 of the Act, 415 ILCS 5/31 (2002), regarding the allegations within Count XIV.

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.

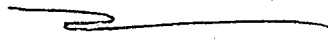
WHEREFORE, Complainant respectfully asks that this Motion to File the Second Supplemental Complaint be granted and that the Complainant be allowed to enforce the additional allegations in this pending matter.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,

LISA MADIGAN  
Attorney General  
State of Illinois

MATTHEW J. DUNN, Chief  
Environmental Enforcement Division

BY:   
THOMAS DAVIS, Chief  
Environmental Bureau  
Assistant Attorney General

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: February 1, 2005

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STATE OF ILLINOIS  
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB NO. 03-182
	)	(Enforcement)
	)	
REILLY INDUSTRIES, INC.,	)	
an Indiana corporation,	)	
	)	
Respondent.	)	

SECOND SUPPLEMENTAL COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and at the request of the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, complains of the Respondent, REILLY INDUSTRIES, INC., as follows:

COUNT I

AIR POLLUTION  
RESULTING FROM INEFFICIENT SCRUBBER

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 Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (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. 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 used as a continuous unit for coal tar distillation. The six batch-type stills are operated in a 20-hour cycle. After each still is filled with coal tar, natural gas burners are ignited. As the temperature of the tar increases, some of 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. The emission units at the facility include seven receiving pans that are controlled by a scrubber.

7. On March 23, 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 due to an increase in production.

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 27, 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. 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 loss of cooling water in the scrubber. Raw data from the August 15<sup>th</sup> test were submitted to the Illinois EPA on October 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 flow regulator controlling the water temperature for the heat exchanger on the scrubber failed.

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. Section 219.501(a) of the Board's Air Pollution Regulations, 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 six 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 less than 90 percent.

20. A second test conducted on August 15, 2001, was aborted.

21. A third stack test conducted on May 21, 2002, was aborted.

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 September 1999, 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 six batch stills. The cuts off of these stills are water, light oil, heavy oil, creosote and final products. The final products include 110°C, 60°C, and 85° softening point pitches and emulsion-based tar (RT-12).

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 Compliance Evaluation Inspections of the facility. On June 28, 2000, the roll-off box number 20326 of front end oil was leaking a black liquid on the ground. Approximately 5 to 10 gallons of hazardous waste were on the ground around the door of the box. At this time, liquid was actively leaking from the door.

11. On July 24, 2000, the weekly container inspection records showed that the roll-off box number 20326 had been 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. On July 24, 2000, the roll-off box number 20247, on a concrete pad near Tank T4 and the locker room and laboratory, was leaking. At this time, the box was actively leaking from both ends of the box onto the concrete pad. Approximately one to three gallons of black liquid were on the pad around the box. Roll-off box 20247 had been leaking for several days and had a hole in the cover tarp. There was a large stained area on the concrete pad running to the low spot on the concrete. The pad did not have secondary containment.

13. On July 24, 2000, there was waste on top of the tarp covering roll-off box number 20417. 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, 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 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;

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. . . .

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. On June 28, 2000 and July 24, 2000, hazardous waste D018 was land disposed of at the Reilly facility.

22. By land disposing hazardous waste D018 at the facility without a RCRA permit, Reilly operated a hazardous waste facility without a permit issued by the Illinois EPA, in violation of Section 21(f) of the Act, 415 ILCS 5/21(f) (2002), 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 Sections 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. Unplanned sudden or non-sudden releases of hazardous waste or hazardous waste constituents to the air, soil or surface water occurred at the facility on June 28, 2000 and July 24, 2000.

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. On June 28, 2000 and July 24, 2000, 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. On July 24, 2000, there was a hole in the tarp covering roll-off box number 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 had failed to send a copy of Manifest IL7810209, dated June 9, 2000, to the Illinois EPA within two working days.

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 11 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. Section 3.545 of the Act, 415 ILCS 5/3.545 (2002), contains the following definition:

“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 caused, threatened or allowed the emission of contaminants so as to cause or tend to cause air pollution in the State because it resulted in 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.

14. By allowing the loss of 1,500 gallons of creosote so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, Reilly 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 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 Woodward, Alabama, since April 2001. Reilly made the decision to remove the car from service. At some point, the decision was made to return the rail car to service. The rail car was subsequently loaded with crude coal tar at Sloss Industries in North Birmingham, Alabama, and shipped back to Reilly's Granite City facility. On July 4, 2003, a Reilly 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, Onyx personnel used 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.

**COUNT XIV**

**JANUARY 28, 2004, AIR POLLUTION VIOLATION**

- 1-9. Complainant realleges and incorporates herein paragraphs 1 through 6 and 14 through 16 of Count I as paragraphs 1 through 9 of this Count XIV.
- 10. On January 28, 2004, still #6 exploded and caused a heat transfer fluid line to leak coal tar pitch, which then ignited and the resulting fire caused emissions of particulate matter, volatile organic material and carbon monoxide.
- 11. The explosion and fire caused, threatened or allowed the emission of contaminants so as to cause or tend to cause air pollution in the State because such resulted in 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.
- 12. By allowing the explosion and fire so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, Reilly 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 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: 2/01/05