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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

APR 14 2005

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,

Complainant,

v.

PETCO PETROLEUM CORPORATION,
an Indiana corporation,

Respondents.

PCB NO. 05-66
(Water-Enforcement)

NOTICE OF FILING

To: Charles J. Northrup
Sorling, Northrup, Hanna, Cullen & Cochran
Suite 800 Illinois Building
607 East Adams, P.O. Box 5131
Springfield, IL 62705

Carol Webb
Hearing Officer
Illinois Pollution Control Board
1021 N. Grand Ave. East
P.O. Box 19274
Springfield, IL 62794-9274

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 FOR LEAVE TO AMEND COMPLAINT and AMENDED COMPLAINT, copies of which are 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
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: April 11, 2005

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MOTION FOR LEAVE TO AMEND COMPLAINT

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, and moves for leave to amend the Complaint in this matter, for the following reasons:

1. On October 13, 2004, the Complaint in six counts was filed in this matter.
2. Section 2-616(a) of the Illinois Code of Civil Procedure, 735 ILCS 5/2-616(a), provides, in pertinent part:

Amendments. (A) At any time before final judgment, amendments may be allowed on just and reasonable terms, introducing any party who ought to have been joined as plaintiff or defendant, dismissing any party, changing the cause of action or defense or adding new cause of action or defenses, and in any matter, either of form or substance, in any process, pleading, bill of particulars or proceedings, which may enable the plaintiff to sustain the claim for which it was intended to be brought or the defendant to make a defense or assert a cross claim.

3. An Amended Complaint is being submitted in conjunction with this Motion to provide Respondent with notice of the amendment in full and for filing upon Board order granting this Motion.
4. The Amended Complaint corrects the regulatory violation alleged in paragraph 22 of Count I, paragraph 21 of Count IV, and paragraph 21 of Count VI. Additional factual information not available at the time of the initial filing is added to paragraph 19 of Count V.
5. The Amended Complaint pleads additional claims of violation for releases that occurred on May 31, 2004 (Counts VII and VIII), November 2, 2004 (Counts IX and X),

December 2, 2004 (Counts XI and XII), and February 15, 2005 (Count XIII). Information regarding the May 31, 2004, release was not provided to the Attorney General's Office until subsequent to the time of the initial filing. The other three releases had obviously not yet occurred as of that time.

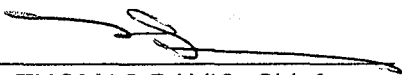
WHEREFORE, Plaintiff respectfully requests that this Motion for Leave to Amend Complaint be granted and that the Amended Complaint be filed upon entry of the Board's order granting leave.

Respectfully submitted,

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

MATTHEW J. DUNN, Chief
Environmental Enforcement Division

BY:


THOMAS DAVIS, Chief
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
(217) 782-9031

Dated:

4/11/05

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,

Complainant,

v.

PETCO PETROLEUM CORPORATION,
an Indiana corporation,

Respondent.

PCB No. 05-66
(Water-Enforcement)

AMENDED COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, PETCO PETROLEUM CORPORATION, an Indiana corporation, as follows:

COUNT I
WATER POLLUTION VIOLATIONS (MAY 24, 2004)

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 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.
3. Petco Petroleum Corporation ("Petco") is an Indiana corporation authorized to do business in Illinois.
4. Petco is authorized to operate oil production and Class II UIC (injection) wells in accordance with permits issued by the Department of Natural Resources pursuant to Subsection 6(2) of the Illinois Oil and Gas Act, 225 ILCS 725/6(2) (2002).

5. Section 12 of the Act, 415 ILCS 5/12 (2002), provides in pertinent part that:

No person shall:

- a. Cause or threaten or allow the discharge of any contaminants into the environment in any State so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources, or so as to violate regulations or standards adopted by the Pollution Control Board under this Act;

* * *

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

* * *

6. Section 3.165 of the Act, 415 ILCS 5/3.165 (2002) provides:

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

7. Section 3.395 of the Act, 415 ILCS 5/3.395 (2002) provides in pertinent part:

"Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment. . . .

8. Section 3.545 of the Act, 415 ILCS 5/3.545 (2002) provides:

"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 waters 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.

9. Section 3.550 of the Act, 415 ILCS 3.550 (2002) provides:

"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.

10. Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203, provides:

Offensive Conditions

Waters of the State shall be free from sludge or bottom deposits, floating debris, visible oil, odor, plant or algal growth, color or turbidity of other than natural origin. The allowed mixing provisions of Section 302.102 shall not be used to comply with the provisions of this Section.

11. Section 302.208(g) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.208(g), provides a general use water quality standard for chloride (total) of 500 milligrams per liter ("mg/L").

12. Section 304.105 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.105, provides:

Violations of Water Quality Standards

In addition to the other requirements of this Part, no effluent shall, alone or in combination with other sources, cause a violation of any applicable water quality standard. . . .

13. Section 304.106 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.106, provides:

Offensive Discharges

In addition to the other requirements of this Part, no effluent shall contain settleable solids, floating debris, visible oil, grease, scum or sludge solids. Color, odor and turbidity must be reduced to below obvious levels.

14. On May 24, 2004, Petco reported the release of approximately 50 barrels of salt water from a corrosion hole in a four-inch steel disposal pipeline at the R.T. Hopper lease near St. Elmo in Fayette County, Illinois.

15. The salt water is a produced fluid generated by Petco's oil production activities and contains a large concentration of chlorides and varying amounts of petroleum constituents, which are "contaminants" as that term is defined in the Act, 415 ILCS 5/3.165 (2002).

16. The salt water was deposited upon the land in such place and manner as to create a water pollution hazard in that it eventually flowed approximately 150 feet across the

ground before entering a small tributary to Big Creek. Approximately one-quarter of a mile of this stream was impacted.

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

18. The Illinois EPA investigated the spill on May 25, 2004, and observed the surface of the water in the stream to be discolored. Unnatural bottom deposits were also observed in the stream. Samples were collected from the stream and subsequently analyzed for chlorides; the results included 10,300 and 13,900 mg/L.

19. Petco's discharge of salt water to the small stream altered its physical and chemical properties so as to likely create a nuisance or render such waters 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.

20. By causing or allowing the discharge of salt water into the "waters" of the State, the Respondent has caused water pollution in the State of Illinois, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2002).

21. Petco has previously been adjudicated in violation of Section 12 of the Act in Jefferson County Circuit Court No. 99-CH-55. These presently alleged violations constitute repeated violations pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2000), and Complainant is authorized to seek attorney's fees and costs.

PRAYER FOR RELIEF

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

- 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. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000) for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000) for each day during which each violation has continued thereafter; and
- E. Granting such other relief as the Board may deem appropriate.

COUNT II
WATER QUALITY VIOLATIONS (MAY 24, 2004)

- 1-20. Complainant realleges and incorporates herein by reference paragraphs 1 through 20 of Count I as paragraphs 1 through 20 of this Count II.
- 21. Petco's discharge of salt water has caused offensive conditions in the tributary to Big Creek in that the waters contained bottom deposits and visible oil, and were discolored and turbid. Respondent has thereby violated 35 Ill. Adm. Code 302.203, 304.105, and 304.106.
- 22. Petco's discharge of salt water has caused the concentration of chlorides in the tributary to Big Creek to exceed the general use water quality standard of 500 mg/L. Respondent has thereby violated 35 Ill. Adm. Code 302.208(g).
- 23. By discharging contaminants into waters of the State so as to violate regulations or standards adopted by the Pollution Control Board under this Act, Petco has thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2002).
- 24. Petco has previously been adjudicated in violation of Section 12 of the Act in Jefferson County Circuit Court No. 99-CH-55. These presently alleged violations constitute

repeated violations pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2000), and Complainant is authorized to seek attorney's fees and costs.

PRAYER FOR RELIEF

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

- 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. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000) for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000) for each day during which each violation has continued thereafter; and
- E. Granting such other relief as the Board may deem appropriate.

COUNT III
WATER POLLUTION VIOLATIONS (AUGUST 21, 2004)

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

14. On August 21, 2004, Petco reported the release of approximately 200 barrels of salt water from a large corrosion hole in a steel pipeline at the Hopper Cummins #3 production well near St. Elmo in Fayette County, Illinois.

15. The salt water is a produced fluid generated by Petco's oil production activities and contains a large concentration of chlorides and varying amounts of petroleum constituents, which are "contaminants" as that term is defined in the Act, 415 ILCS 5/3.165 (2002).

16. The salt water was deposited upon the land in such place and manner as to create a water pollution hazard in that it eventually flowed approximately 50 feet across the ground before entering Little Moccasin Creek, which is a tributary to Big Creek. Approximately one-half of a mile of these streams were impacted.

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

18. The Illinois EPA investigated the spill on August 21, 2004, and observed the surface of the water in the stream to be discolored. Dead and dying fish were also observed in the stream. Samples were collected from the streams and subsequently analyzed for chlorides; the results included 26,000 mg/L in Little Moccasin Creek and 30,500 mg/L one-quarter of a mile downstream in Big Creek.

19. The Illinois EPA returned to the spill site to further its investigation on August 22 and 24, 2004. Samples were collected from the streams and subsequently analyzed for chlorides; the results included 8,990 mg/L in Little Moccasin Creek on August 22nd and 7,760 mg/L one-half of a mile downstream in Big Creek on August 24th.

20. Petco's discharge of salt water to the small stream altered its physical and chemical properties so as to likely create a nuisance or render such waters 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.

21. By causing or allowing the discharge of salt water into the "waters" of the State, the Respondent has caused water pollution in the State of Illinois, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2002).

22. Petco has previously been adjudicated in violation of Section 12 of the Act in Jefferson County Circuit Court No. 99-CH-55. These presently alleged violations constitute repeated violations pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2000), and Complainant is authorized to seek attorney's fees and costs.

PRAYER FOR RELIEF

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

- 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. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000) for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000) for each day during which each violation has continued thereafter; and
- E. Granting such other relief as the Board may deem appropriate.

COUNT IV **WATER QUALITY VIOLATIONS (AUGUST 21, 2004)**

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

14-19. Complainant realleges and incorporates herein by reference paragraphs 14 through 19 of Count III as paragraphs 14 through 19 of this Count IV.

20. Petco's discharge of salt water has caused offensive conditions in the tributary to Big Creek in that the waters were discolored and turbid. Respondent has thereby violated 35 Ill. Adm. Code 302.203; 304.105, and 304.106.

21. Petco's discharge of salt water has caused the concentration of chlorides in the Little Moccasin Creek and Big Creek to exceed the general use water quality standard of 500 mg/L. Respondent has thereby violated 35 Ill. Adm. Code 302.208(g).

22. By discharging contaminants into waters of the State so as to violate regulations or standards adopted by the Pollution Control Board under this Act, Petco has thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2002).

23. Petco has previously been adjudicated in violation of Section 12 of the Act in Jefferson County Circuit Court No. 99-CH-55. These presently alleged violations constitute repeated violations pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2000), and Complainant is authorized to seek attorney's fees and costs.

PRAYER FOR RELIEF

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

- 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. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000) for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000) for each day during which each violation has continued thereafter; and

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

COUNT V
WATER POLLUTION VIOLATIONS (OCTOBER 4, 2004)

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

14. On October 4, 2004, Petco reported the release of approximately 300 barrels of salt water from a pipeline from the Edith Durbin Sump to the Benny Shaw Water Flood Plant near St. Elmo in Fayette County, Illinois.

15. The salt water is a produced fluid generated by Petco's oil production activities and contains a large concentration of chlorides and varying amounts of petroleum constituents, which are "contaminants" as that term is defined in the Act, 415 ILCS 5/3.165 (2002).

16. The salt water was deposited upon the land in such place and manner as to create a water pollution hazard in that it eventually flowed through a previously dry creek bed before entering Little Creek. Approximately three-quarters of a mile of this stream was impacted.

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

18. The Illinois EPA investigated the spill on October 4, 2004, and observed a black suspended precipitate on the bottom of Little Creek at locations one-half and three-quarters of a mile downstream of the discharge into the stream.

19. The Illinois EPA collected field samples for chlorides at locations one-half and three-quarters of a mile downstream of the discharge into the stream with respective results of 6,263 and 5,488 mg/L. The Illinois EPA also collected samples for laboratory analysis for chlorides at locations one-eighth and three-quarters of a mile downstream of the discharge into the stream with respective results of 56,400 and 1,030 mg/L.

20. Petco's discharge of salt water to the small stream altered its physical and chemical properties so as to likely create a nuisance or render such waters 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.

21. By causing or allowing the discharge of salt water into the "waters" of the State, the Respondent has caused water pollution in the State of Illinois, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2002).

22. Petco has previously been adjudicated in violation of Section 12 of the Act in Jefferson County Circuit Court No. 99-CH-55. These presently alleged violations constitute repeated violations pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2000), and Complainant is authorized to seek attorney's fees and costs.

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

D. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000) for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000) for each day during which each violation has continued thereafter; and

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

COUNT VI
WATER QUALITY VIOLATIONS (OCTOBER 4, 2004)

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

14-19. Complainant realleges and incorporates herein by reference paragraphs 14 through 19 of Count V as paragraphs 14 through 19 of this Count VI.

20. Petco's discharge of salt water has caused offensive conditions in Little Creek in that the waters were discolored and turbid. Respondent has thereby violated 35 Ill. Adm. Code 302.203, 304.105, and 304.106.

21. Petco's discharge of salt water has caused the concentration of chlorides in the Little Creek to exceed the general use water quality standard of 500 mg/L. Respondent has thereby violated 35 Ill. Adm. Code 302.208(g).

22. By discharging contaminants into waters of the State so as to violate regulations or standards adopted by the Pollution Control Board under this Act, Petco has thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2002).

23. Petco has previously been adjudicated in violation of Section 12 of the Act in Jefferson County Circuit Court No. 99-CH-55. These presently alleged violations constitute

repeated violations pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2000), and Complainant is authorized to seek attorney's fees and costs.

PRAYER FOR RELIEF

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- 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. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000) for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000) for each day during which each violation has continued thereafter; and
- E. Granting such other relief as the Board may deem appropriate.

COUNT VII
WATER POLLUTION VIOLATIONS (MAY 31, 2004)

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

14. On May 31, 2004, Petco reported the release of approximately 10 to 15 barrels of crude oil from the Ada Clow Sump near St. Elmo in Fayette County, Illinois. The crude oil was within a cement pit with the dimensions of 50 feet wide, 100 feet long, and 8 feet deep until heavy rains and flooding caused the sump pump to malfunction, which then allowed the crude

oil to overflow the pit. The Ada Clow Sump is located in a flood plain and had been flooded in 2002.

15. The crude oil is a produced fluid generated by Petco's oil production activities and contains petroleum constituents, which are "contaminants" as that term is defined in the Act, 415 ILCS 5/3.165 (2002).

16. The crude oil was deposited upon the land in such place and manner as to create a water pollution hazard in that it affected an area approximately 100 feet wide and 660 feet long within a slough and eventually flowed one-third of a mile before discharging into Wolf Creek.

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

18. The Illinois EPA investigated the spill on June 1, 2004, and observed oil sheens on the surface of Wolf Creek.

19. The Illinois EPA also observed Petco workers skimming oil from the surface of Wolf Creek and removing oil-contaminated vegetation.

20. Petco's discharge of crude oil to the small stream altered its physical and chemical properties so as to likely create a nuisance or render such waters 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.

21. By causing or allowing the discharge of crude oil into the "waters" of the State, the Respondent has caused water pollution in the State of Illinois, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2002).

22. Petco has previously been adjudicated in violation of Section 12 of the Act in Jefferson County Circuit Court No. 99-CH-55. These presently alleged violations constitute repeated violations pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2000), and Complainant is authorized to seek attorney's fees and costs.

PRAYER FOR RELIEF

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- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000) for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000) for each day during which each violation has continued thereafter; and
- E. Granting such other relief as the Board may deem appropriate.

COUNT VIII
WATER QUALITY VIOLATIONS (MAY 31, 2004)

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

14-19. Complainant realleges and incorporates herein by reference paragraphs 14 through 19 of Count VII as paragraphs 14 through 19 of this Count VIII.

20. Petco's discharge of crude oil has caused offensive conditions in Wolf Creek in that the waters contained visible oil. Respondent has thereby violated 35 Ill. Adm. Code 302.203, 304.105, and 304.106.

21. By discharging contaminants into waters of the State so as to violate regulations or standards adopted by the Pollution Control Board under this Act, Petco has thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2002).

22. Petco has previously been adjudicated in violation of Section 12 of the Act in Jefferson County Circuit Court No. 99-CH-55. These presently alleged violations constitute repeated violations pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2000), and Complainant is authorized to seek attorney's fees and costs.

PRAYER FOR RELIEF

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- D. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000) for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000) for each day during which each violation has continued thereafter; and
- E. Granting such other relief as the Board may deem appropriate.

COUNT IX
WATER POLLUTION VIOLATIONS (NOVEMBER 8, 2004)

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

14. On October 4, 2004, Petco reported the release of approximately 100 barrels of salt water and 1 barrel of crude oil from the Mary Scott Disposal Line near St. Elmo in Fayette County, Illinois.

15. The salt water and crude oil are each a produced fluid generated by Petco's oil production activities, the former contains a large concentration of chlorides and varying amounts of petroleum constituents and the latter is mostly petroleum, which are "contaminants" as that term is defined in the Act, 415 ILCS 5/3.165 (2002).

16. The salt water and crude oil were released directly into a tributary of Big Creek.

17. The Illinois EPA investigated the spill on November 8, 2004, and observed a black suspended precipitate in the water and crude oil on the surface of the water

18. The Illinois EPA collected field samples for chlorides at a locations one-quarter of a mile downstream of the discharge into the stream with results exceeding 6,722 mg/L.

19. Petco's discharge of salt water and crude oil to the small stream altered its physical and chemical properties so as to likely create a nuisance or render such waters 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.

20. By causing or allowing the discharge of salt water and crude oil into the "waters" of the State, the Respondent has caused water pollution in the State of Illinois, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2002).

21. Petco has previously been adjudicated in violation of Section 12 of the Act in Jefferson County Circuit Court No. 99-CH-55. These presently alleged violations constitute repeated violations pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2000), and Complainant is authorized to seek attorney's fees and costs.

PRAYER FOR RELIEF

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- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000) for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000) for each day during which each violation has continued thereafter; and
- E. Granting such other relief as the Board may deem appropriate.

COUNT X
WATER QUALITY VIOLATIONS (NOVEMBER 8, 2004)

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

14-18. Complainant realleges and incorporates herein by reference paragraphs 14 through 18 of Count IX as paragraphs 14 through 18 of this Count X.

19. Petco's discharge of salt water and crude oil has caused offensive conditions in Little Creek in that the waters were discolored and turbid, and contained visible oil. Respondent has thereby violated 35 Ill. Adm. Code 302.203, 304.105, and 304.106.

20. Petco's discharge of salt water has caused the concentration of chlorides in the tributary to Big Creek to exceed the general use water quality standard of 500 mg/L. Respondent has thereby violated 35 Ill. Adm. Code 302.208(g).

21. By discharging contaminants into waters of the State so as to violate regulations or standards adopted by the Pollution Control Board under this Act, Petco has thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2002).

22. Petco has previously been adjudicated in violation of Section 12 of the Act in Jefferson County Circuit Court No. 99-CH-55. These presently alleged violations constitute repeated violations pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2000), and Complainant is authorized to seek attorney's fees and costs.

PRAYER FOR RELIEF

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

- 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. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000) for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000) for each day during which each violation has continued thereafter; and

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

COUNT XI
WATER POLLUTION VIOLATIONS (DECEMBER 2, 2004)

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

14. On December 2, 2004, Petco reported the release of approximately 1 barrel of crude oil from the Mabel Durbin #1 well near St. Elmo in Fayette County, Illinois.

15. The crude oil is a produced fluid generated by Petco's oil production activities and contains petroleum constituents, which are "contaminants" as that term is defined in the Act, 415 ILCS 5/3.165 (2002).

16. The crude oil was deposited upon the land in such place and manner as to create a water pollution hazard in that it affected an area approximately 600 square feet before discharging into a tributary of South Fork Creek

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

18. The Illinois EPA investigated the spill on December 3, 2004, and observed crude oil within the water and oil-stained vegetation along approximately 100 feet of the stream.

19. Petco's discharge of crude oil to the small stream altered its physical and chemical properties so as to likely create a nuisance or render such waters 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.

20. By causing or allowing the discharge of crude oil into the "waters" of the State, the Respondent has caused water pollution in the State of Illinois, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2002).

21. Petco has previously been adjudicated in violation of Section 12 of the Act in Jefferson County Circuit Court No. 99-CH-55. These presently alleged violations constitute repeated violations pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2000), and Complainant is authorized to seek attorney's fees and costs.

PRAYER FOR RELIEF

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

- 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. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000) for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000) for each day during which each violation has continued thereafter; and
- E. Granting such other relief as the Board may deem appropriate.

COUNT XII **WATER QUALITY VIOLATIONS (DECEMBER 2, 2004)**

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

14-18. Complainant realleges and incorporates herein by reference paragraphs 14 through 18 of Count XI as paragraphs 14 through 18 of this Count XII.

19. Petco's discharge of crude oil has caused offensive conditions in the tributary to South Fork Creek in that the waters contained visible oil. Respondent has thereby violated 35 Ill. Adm. Code 302.203, 304.105, and 304.106.

20. By discharging contaminants into waters of the State so as to violate regulations or standards adopted by the Pollution Control Board under this Act, Petco has thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2002).

21. Petco has previously been adjudicated in violation of Section 12 of the Act in Jefferson County Circuit Court No. 99-CH-55. These presently alleged violations constitute repeated violations pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2000), and Complainant is authorized to seek attorney's fees and costs.

PRAYER FOR RELIEF

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

- 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. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000) for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000) for each day during which each violation has continued thereafter; and

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

COUNT XIII
WATER POLLUTION VIOLATIONS (FEBRUARY 15, 2005)

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

14. On February 15, 2005, Petco reported the release of approximately 20 barrels of salt water and 3 barrels of crude oil from a pipeline near St. Elmo in Fayette County, Illinois.

15. The salt water and crude oil are each a produced fluid generated by Petco's oil production activities, the former contains a large concentration of chlorides and varying amounts of petroleum constituents and the latter is mostly petroleum, which are "contaminants" as that term is defined in the Act, 415 ILCS 5/3.165 (2002).

16. The salt water and crude oil were released from a pig trap in the pipeline and impacted an area approximately 12,000 square feet.

17. The Illinois EPA investigated the spill on November 8, 2004, and determined that any discharge of the salt water and crude oil into the Little Moccasin Creek was not evident.

18. The crude oil was deposited upon the land in such place and manner as to create a water pollution hazard in that the pig trap was located approximately 50 feet from the stream and there were no barriers between the large area of contaminated ground and the stream.

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

20. Petco has previously been adjudicated in violation of Section 12 of the Act in Jefferson County Circuit Court No. 99-CH-55. These presently alleged violations constitute repeated violations pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2000), and Complainant is authorized to seek attorney's fees and costs.

PRAYER FOR RELIEF

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

- 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. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000) for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000) for each day during which each violation has continued thereafter; 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
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: 4/1/05

CERTIFICATE OF SERVICE

I hereby certify that I did on April 11, 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 and COMPLAINANT'S MOTION FOR LEAVE TO AMEND COMPLAINT and AMENDED COMPLAINT:

To: Charles J. Northrup
Sorling, Northrup, Hanna, Cullen & Cochran
Suite 800 Illinois Building
607 East Adams, P.O. Box 5131
Springfield, IL 62705

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 by First Class Mail with postage thereon fully prepaid

To: Carol Webb
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Ave. East
P.O. Box 19274
Springfield, IL 62794-9274



Thomas Davis
Assistant Attorney General

This filing is submitted on recycled paper.