

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
vs.)	No. PCB
)	(Enforcement)
PREMIER WASTE & RECYCLING, INC.,)	
an Illinois corporation,)	
)	
Respondent.)	

NOTICE OF FILING

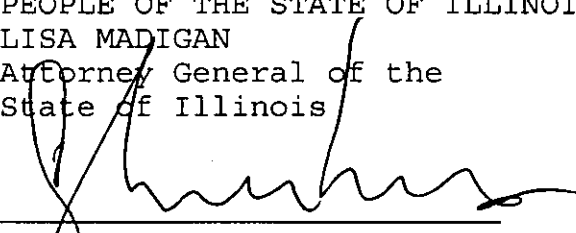
PLEASE TAKE NOTICE that we have today, October 6, 2005, filed with the Office of the Clerk of the Illinois Pollution Control Board the following Complaint, via electronic filing. A copy of the complaint is attached and hereby served upon you.

Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney.

Respectfully submitted,

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

BY:


CHRISTOPHER GRANT
Assistant Attorney General
Environmental Bureau
188 W. Randolph St., 20th Flr.
Chicago, IL 60601
(312) 814-5388

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PEOPLE OF THE STATE OF ILLINOIS,)	
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COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, PREMIER WASTE & RECYCLING, INC., as follows:

COUNT I
OPEN DUMPING OF WASTE

1. This Complaint is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS by LISA MADIGAN, Attorney General of the State of Illinois, pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2004).

2. Respondent PREMIER WASTE & RECYCLING, INC. ("Premier") is an Illinois corporation, duly authorized to transact business in the State of Illinois. Premier is in the business of waste removal, transportation, and disposal.

3. As part of its business, Premier picks up waste and debris from customer locations, and transports the debris to disposal sites chosen by Premier.

4. From February, 2001 until May, 2004, Willie H. Carter, an individual doing business as Carter's Excavating & Trucking,

operated a waste disposal business on an eight-acre site located at 15600 Commercial Street, Harvey, Cook County, Illinois ("Carter Site"). The Carter Site has never been covered by an Illinois EPA permit for the treatment, storage, or disposal of waste.

5. On June 3, 2005, the Circuit Court of Cook County found, after trial in *People v. Willie H. Carter et al*, 04 CH 5288/04 M6 2990 (consolidated), that Willie H. Carter had violated Sections 21(a) and 21(d)(1) of the Act, 415 ILCS 5/21(a) and 5/21(d)(1) (2004), by operating an illegal waste disposal business at the Carter Site. A copy of the Court's judgment order is attached hereto as Exhibit 'A'.

6. On a date better known to the Respondent, but from at least December 9, 2002, Premier began bringing loads of waste and debris to the Carter Site for disposal.

7. Between December 9, 2002 and May 30, 2003, Premier brought at least three hundred eight (308) truck loads of debris to the Carter Site. The debris was dumped by the Respondent onto the ground at the Carter Site.

8. The debris dumped by Respondent at the Carter Site consisted of mixtures of broken and waste concrete, dirt, clay discarded metal and wire mesh, broken and waste bricks, discarded cinder block, wood, broken and waste drywall, paper, construction debris, brickbat, and waste plastic (collectively "mixed debris").

9. Section 21(a) of the Act, 415 ILCS 5/21(a) (2004), provides, in pertinent part, as follows:

No person shall:

(a) Cause or allow the open dumping of any waste.

* * *

10. Section 3.315 of the Act, 415 ILCS 5/3.315 (2004), provides, as follows:

"PERSON" is an individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

11. Respondent Premier, an Illinois corporation, is a "person" as that term is defined by Section 3.315 of the Act, 415 ILCS 5/3.315 (2004).

12. Section 3.535 of the Act, 415 ILCS 5/3.535 (2004), provides, in pertinent part, as follows:

"WASTE" means any garbage...or any other discarded material, including any solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities....

13. Sections 3.385 of the Act, 415 ILCS 5/3.385 (2004), provides, as follows:

"REFUSE" means waste.

14. The Respondent discarded at least 308 loads of mixed debris by dumping it on the ground at the Carter Site. The mixed debris is therefore "waste" as that term is defined by Section 3.535 of the Act, and therefore also "refuse" as defined by Section 3.385 of the Act, 415 ILCS 5/3.535 and 5/3.385 (2004).

15. Section 3.185 of the Act, 415 ILCS 5/3.185 (2004),

provides, as follows:

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste or hazardous waste into or on any land or water or into any well so that such waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

16. Section 3.460 of the Act, 415 ILCS 5/3.460 (2004), provides, as follows:

"Site" means any location, place, tract of land, and facilities, including but not limited to buildings, and improvements used for purposes subject to regulation or control by this Act or regulations thereunder.

17. Respondent Premier dumped waste at the Carter Site in a manner that exposed the waste to air and to the environment. The Carter Site is therefore a "disposal site" as defined in the Act.

18. Section 3.305 of the Act, 415 ILCS 5/3.305 (2004), provides, as follows:

"OPEN DUMPING" means the consolidation of refuse from one or more sources at a disposal site that does not fulfill the requirements of a sanitary landfill.

19. Section 3.445 of the Act, 415 ILCS 5/3.445 (2004), provides, in pertinent part, as follows:

"SANITARY LANDFILL" means a facility permitted by the Agency for the disposal of waste on land meeting the requirements of the Resource Conservation and Recovery Act, P.L 94-580,....

20. At all times relevant to this Amended Complaint, the Carter Site was not permitted by the Illinois EPA for the disposal of waste, and thus did not fulfill the requirements of a sanitary landfill.

21. By causing and allowing the consolidation of waste from

one or more sources at the Carter Site from at least December 9, 2002 until at least May 30, 2003, Respondent Premier caused and allowed the open dumping of waste, and thereby violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2004).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent PREMIER WASTE & RECYCLING, INC. on Count I:

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

2. Finding that the Respondent has violated Section 21(a) of the Act;

3. Ordering Respondent to cease and desist from future violations of Section 21(a) of the Act;

4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000) against the Respondent for each violation of Section 21(a) of the Act, and an additional civil penalty of Ten Thousand Dollars (\$10,000) for each day of violation;

5. Ordering the Respondent to pay all costs, pursuant to Section 42(f) of the Act, including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

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

COUNT II
WASTE DISPOSAL AT AN IMPROPER SITE

1-18. Complainant realleges and incorporates by reference herein paragraphs 1 through 8, paragraphs 10 through 17, and

paragraphs 19 through 20 of Count I, as paragraphs 1 through 18 of this Count II.

19. Section 21(e) of the Act, 415 ILCS 5/21(e) (2004), provides, as follows:

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.

20. The Respondent disposed of at least 308 truck loads of mixed debris at the Carter Site, a site that was not permitted for waste disposal by the Illinois EPA, and which therefore did not meet the requirements of the Act. The Respondent thereby violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2004).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent PREMIER WASTE & RECYCLING, INC. on Count II:

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

2. Finding that the Respondent has violated Section 21(e) of the Act;

3. Ordering the Respondent to cease and desist from any future violations of Section 21(e) of the Act;

4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000) against the Respondent for each violation of Section 21(e) of the Act, and an additional civil penalty of Ten Thousand

Dollars (\$10,000) for each day of violation;

5. Ordering the Respondent to pay all costs, pursuant to Section 42(f) of the Act, including attorney, expert witness, and consultant fees expended by the state in its pursuit of this action; and

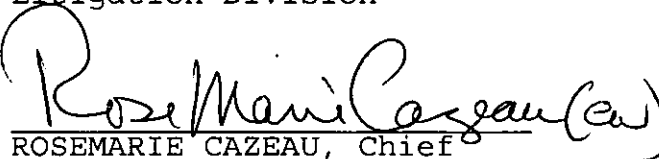
6. Granting such other relief as the Board deems appropriate and just.

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:


ROSEMARIE CAZEAU, Chief
Environmental Bureau
Assistant Attorney General

OF COUNSEL

CHRISTOPHER GRANT
Assistant Attorney General
Environmental Bureau
188 W. Randolph St. 20th Floor
Chicago, Illinois 60601
(312) 814-5388

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

PEOPLE OF THE STATE OF ILLINOIS,
ex rel. LISA MADIGAN, Attorney
General, and RICHARD A. DEVINE,
State's Attorney,

Plaintiff,

v.

WILLIE H. CARTER, *et al.*,

Defendants.

No. 04 CH 5288

-- consolidated with --

DRESHER, INC.,

Plaintiff,

v.

DENISE DICKEY, *et al.*,

Defendants.

No. 04 M6-2990

JUDGE PETER FLYNN

JUN 03 2005

Circuit Court-1784

JUDGMENT ORDER

These two consolidated cases having come before the Court for trial, the Court having heard the evidence and arguments of the parties and being duly advised in the premises,

IT IS HEREBY ORDERED AND ADJUDGED as follows, for the reasons stated in the Court's oral ruling on the record herein on June 1, 2005:

1. The Court finds and concludes that Willie H. Carter has violated 415 ILCS 5/21(a)

EXHIBIT

A

by assembling and maintaining "Pile No. 1" on the "Site" (commonly known as 15600 Commercial, Harvey, Illinois), and has violated 415 ILCS 5/21(d)(1) by doing so without a permit from the Illinois Environmental Protection Agency ("IEPA"). Judgment is hereby entered in favor of plaintiff and against defendant Carter on Counts I and III of plaintiff's First Amended Complaint ("*Am. Cplt.*").

2. As a penalty for the violations identified in paragraph 1, defendant Willie H. Carter shall pay to the State of Illinois a sum equal to 40% of the cost incurred by the State for the court reporter used at the trial.

3. The Court finds and concludes that Dresher, Inc. has violated 415 ILCS 5/21(a) by allowing defendant Carter to assemble and maintain "Pile No. 1" on the "Site" (defendant Dresher's property) after knowing that defendant Carter was doing so. Judgment is hereby entered in favor of plaintiff and against defendant Dresher, Inc. on *Am. Cplt.*, Count I.

4. As a penalty for the violation identified in paragraph 3, defendant Dresher, Inc. shall pay to the State of Illinois a sum equal to 40% of the cost incurred by the State for the court reporter used at the trial.

5. The Court finds and concludes that since approximately May 2004, defendant Dresher, Inc. has excluded defendant Willie H. Carter from access to the "Site." Defendant Dresher, Inc. has obtained an Order of Possession in No. 04 M6-2990 evicting Carter and those in privity with him from the "Site." Defendant Dresher, Inc. has thereby assumed responsibility for "Pile No. 1" located on the "Site." Accordingly, defendant Dresher, Inc. must be, and is hereby, required and directed to implement and perform its proposed work plan for cleanup of the "Site," as provided in Pl. Ex. 29 (attached hereto as Exhibit A) and approved by IEPA, pursuant to the terms thereof.

6. The Court finds and concludes that under the circumstances of this case, *Am. Cplt.*, Count II is duplicative of *Am. Cplt.*, Count I. Accordingly, *Am. Cplt.*, Count II is dismissed.

7. The Court finds and concludes that under the circumstances of this case, *Am. Cplt.*, Count IV is duplicative of *Am. Cplt.*, Count I. Accordingly, *Am. Cplt.*, Count IV is dismissed.

8. With regard to defendant Dresher's claims against defendant Carter, and after allowing credit and set-off to defendant Carter with respect to "Pile No. 1" as stated in the Court's oral ruling herein, the Court finds and concludes that judgment should be, and it is hereby, entered in favor of Dresher, Inc. and against defendant Willie H. Carter in the sum of \$13,435.51.


9. Without prejudice to any possible claims for damages by Ralph Tolbert against defendant Carter, any and all remaining claims of Mr. Carter or any persons in privity with him to "Pile No. 1," and/or to any personal property or equipment located at the "Site," are hereby terminated and extinguished. As to "Pile No. 1," Mr. Carter's claims are reflected in the credit and set-off referred to in paragraph 8. As to any other personalty or equipment, Mr. Carter has had, and has now exhausted, the opportunity to remove any such property and equipment from the "Site."

10. To the extent not otherwise granted or addressed hereby, all remaining claims, counterclaims, and defenses in No. 04 CH 5288 and/or No. 04 M6-2990 are dismissed.

11. This Judgment Order disposes of all issues herein and is a final judgment.

DATED: June 3, 2005

ENTER:



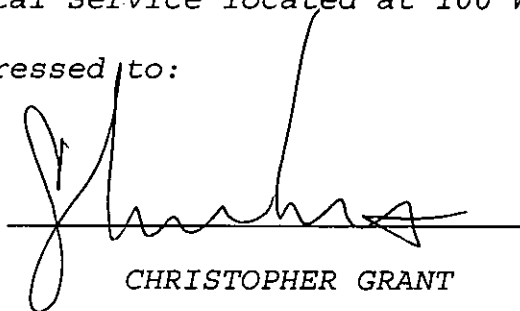
Circuit Judge

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Respondent.)	

CERTIFICATE OF SERVICE

I, CHRISTOPHER GRANT, an attorney, do certify that I caused to be served this 6th day of October, 2005, the foregoing Complaint and Notice of Filing upon the person listed below, by certified mail, by placing same in an envelope bearing sufficient postage with the United States Postal Service located at 100 W. Randolph, Chicago Illinois and addressed to:


CHRISTOPHER GRANT

Service List:

Mr. Donald J. Russ, Jr.
Registered Agent
30 South Wacker Drive, 26th Floor
Chicago, Illinois 60606