

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
-vs-)
)
NORTH AMERICAN LIGHTING, INC.,)
a Michigan corporation,)
)
Respondent.)

PCB No. 06-78
(Enforcement)

RECEIVED
CLERK'S OFFICE
NOV 17 2005
STATE OF ILLINOIS
Pollution Control Board

NOTICE OF FILING

To: North American Lighting, Inc.
c/o CT Corporation System, Registered Agent
208 South LaSalle Street
Chicago, Illinois 60604-1135


PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois, an ENTRY OF APPEARANCE and 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, Chief
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: November 14, 2005

CERTIFICATE OF SERVICE

I hereby certify that I did on November 14, 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, ENTRY OF APPEARANCE and COMPLAINT

To: North American Lighting, Inc.
c/o CT Corporation System, Registered Agent
208 South LaSalle Street
Chicago, Illinois 60604-1135

and the original and ten copies by First Class Mail with postage thereon fully prepaid of the same foregoing instrument(s)

To: Dorothy Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
Suite 11-500
100 West Randolph
Chicago, Illinois 60601



Thomas Davis
Assistant Attorney General

This filing is submitted on recycled paper.

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APPEARANCE

I, RAYMOND CALLERY, Assistant Attorney General of the State of Illinois, hereby file my appearance in this proceeding on behalf of the Complainant, PEOPLE OF THE STATE OF ILLINOIS.

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: 

RAYMOND CALLERY
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
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COMPLAINT

The PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency, complains of the Respondent, North American Lighting, Incorporated, as follows:

COUNT I

AIR POLLUTION

1. This Count is brought on behalf of the People of the State of Illinois, by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), pursuant to Section 31 of the Illinois Environmental Protection Act ("the Act"), 415 ILCS 5/31 (2004).

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 (2004), and charged *inter alia*, with the duty of enforcing the Act.

3. North American Lighting, Incorporated, is and was at all times relevant to this Complaint, a Michigan corporation in good standing. The registered agent for the Respondent is CT Corporation System, 208 South LaSalle Street, Chicago, Illinois 60604-1135.

5. Respondent is and was at all times relevant to this Complaint the owner and operator of a facility located at 20 Industrial Park, Flora, Clay County, Illinois. The facility is located on the East side of Flora near the municipal airport and within a quarter mile of tributaries to Elm Creek.

6. Section 3.165 of the Act, 415 ILCS 5/3.165 (2004), provides as follows:

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

7. Section 9(a) of the Act, 415 ILCS 5/9(a) (2004), provides as follows:

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;

* * *

8. Section 3.115 of the Act, 415 ILCS 5/3.115 (2004), provides 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.

9. Section 201.141 of the Board’s Air Pollution regulations, 35 Ill. Adm. Code

Section 201.141, provides:

No person shall cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as, either alone or in combination with contaminants from other sources, to cause or tend to cause air pollution in Illinois, or so as to violate the provisions of this Chapter, or so as to prevent the attainment or maintenance of any applicable ambient air quality standard.

10. The Respondent is a manufacturer of automotive headlamps, fog lamps, and auxiliary systems. In the course of its manufacturing, the Respondent uses many hazardous

chemicals, including but not limited to hydrochloric acid, sodium hydroxide, methyl isobutyl ketone, n-butyl alcohol, xylene, styrene, and toluene.

11. At some point prior to December 2001, the Respondent arranged for the installation of two approximately 5,000 gallon capacity single-walled fiberglass tanks for the bulk storage of hydrochloric acid and sodium hydroxide. Respondent provided the design and specifications for the tanks and secondary containment systems to the contractors who built the tanks and constructed the secondary containment systems.

12. On December 16, 2001, at about 3:30 p.m., the tank used to store hydrochloric acid ("HCl") failed at the bottom, releasing HCl into the secondary containment structure; the tank had been filled on December 11, 2001. The HCl escaped the secondary containment system as well and a large quantity migrated through the building to an exterior driveway with a lesser amount being deposited within a storm water drainage ditch upon adjacent property.

13. Atmospheric conditions on December 16, 2001, were such that the HCl also generated a thick cloud of HCl mist almost immediately upon release. Some of the mist also was emitted from the site.

14. At 4:09 p.m., an employee of the Respondent notified the Illinois Emergency Management Agency ("IEMA") of the release. At about 7:50 p.m., an employee of the Respondent reported to IEMA that almost 4,000 gallons of HCl had been released. At some point before this 7:50 p.m. call, local police, fire department and first responders arrived on site and observed the cloud of mist coming across a field. First responders also reported the odor of chemicals in the air and burning sensations in their eyes and nostrils.

15. Twenty residents living within three-quarters of a mile of the site were promptly evacuated and several streets and subdivisions were closed.

16. A contractor, M & I Acid, was called to the site to begin recovery of the liquid acid. Ultimately M & I Acid was able to recover approximately 700 gallons of HCl.

17. From December 17, 2001, through December 18, 2001, approximately 63 tons of lime and 6.4 tons of soda ash were used to neutralize pooled acid and affected soil.

18. An inspection by the Illinois EPA on December 18, 2001, confirmed the spill of approximately 4,000 gallons of HCl and documented that there were few, if any, neutralization materials present on site, no collection or containment pumps or tanks, and no air monitoring equipment at the facility.

19. Approximately 89 tons of neutralized lime-acid mixture and contaminated soil were ultimately removed from the site and transported to a landfill.

20. The Occupational Health and Safety Administration ("OSHA") also sent staff for an on-site inspection on December 18, 2001. The OSHA inspector determined that significant and knowing violations had occurred, and a fine was assessed against NAL.

21. On April 25, 2002, the Illinois EPA was provided with the results of analytical sampling of soils which showed that all sample results tested below the Tiered Approach to Corrective Action Objectives remediation objectives.

22. By causing or allowing the release of the HCl vapor plume to the ambient air in sufficient quantities as to be injurious to human health, such that citizens had to be evacuated to ensure their continued safety, the Respondent has caused air pollution and thereby violated Section 9(a) of the Act , 415 ILCS 5/9(a) (2004), and 35 Ill. Adm. Code Section 201.141.

PRAYER FOR RELIEF

WHEREFORE, the Complainant, People of the State of Illinois, respectfully requests that this Board grant the following relief:

- A. Find that the Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2004) and 35 Ill. Adm. Code Section 201.141;
- B. Order the Respondent to cease and desist from further violations of the Act and its regulations;
- C. Assess against the Respondent a monetary penalty in accordance with the statutes; and
- D. Grant such other and further relief as this Board deems appropriate.

COUNT II

WATER POLLUTION HAZARD

1. The Complainant realleges and incorporates by reference paragraphs 1 through 19 of Count I as if fully set forth herein as paragraphs 1 through 19 of this Count II.

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

No person shall:

* * *

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

* * *

21. Section 3.545 of the Act, 415 ILCS 5/3.545 (2004), provides as follows:

"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.

22. The HCI which had escaped the secondary containment system was deposited upon the land within a storm water drainage ditch upon adjacent property within a quarter mile of tributaries to Elm Creek.

23. By causing or allowing the HCI to be deposited in such place and manner so as to create a water pollution hazard, the Respondent violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2004).

PRAYER FOR RELIEF

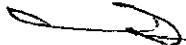
WHEREFORE, the Complainant, People of the State of Illinois, respectfully requests that this Board grant the following relief:

- A. Find that the Respondent has violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2004);
- B. Order the Respondent to cease and desist from further violations of the Act and its regulations;
- C. Assess against the Respondent a monetary penalty in accordance with the statutes; and
- D. Grant such other and further relief as this Board deems appropriate.

Respectfully submitted,

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

MATTHEW J. DUNN, Chief
Environmental Enforcement Division

BY: 
THOMAS DAVIS, Chief
Environmental Bureau
Assistant Attorney General

Of Counsel!

Raymond Callery

Assistant Attorney General

Environmental Bureau/Springfield

500 South Second Street

Springfield, Illinois 62706

Date: 11/14/05