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STATE OF ILLINOIS
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

November 17, 2005

PCB 06-81

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

Re: ***People v. Briggs Industries, Inc.***

Dear Clerk Gunn:

Enclosed for filing please find the original and ten copies of a Notice of Filing, Entry of Appearance and Complaint in regard to the above-captioned matter. Please file the originals and return file-stamped copies to me in the enclosed, self-addressed envelope.

Thank you for your cooperation and consideration.

Very truly yours,

Phillip McQuillan
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706
(217) 782-9031

PM/pp
Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF)
ILLINOIS,)
)
Complainant,)
)
vs.)
)
BRIGGS INDUSTRIES, INC.,)
a Michigan corporation,)
)
Respondent.)

PCB No. PCB 06-81
(Enforcement)

NOTICE OF FILING

To: Briggs Industries, Inc.
c/o Joel A. Benoit
Mohan Alewelt Prillaman & Adami
One N. Old Capitol Plaza, Ste. 325
Springfield, IL 62701

PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois, a COMPLAINT, a copy of which is attached hereto and herewith served upon you. Failure to file an answer to this Complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in this Complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney.

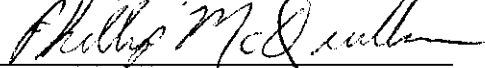
FURTHER, please take notice that financing may be available, through the Illinois Environmental Facilities Financing Act, 20 ILCS 3515/1 (2004), to correct the pollution alleged in the Complaint filed in this case.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN,
Attorney General of the
State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

BY: 

PHILLIP McQUILLAN
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: November 17, 2005

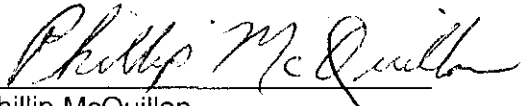
CERTIFICATE OF SERVICE

I hereby certify that I did on November 17, 2005, send by certified mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instruments entitled NOTICE OF FILING, ENTRY OF APPEARANCE and COMPLAINT:

To: Briggs Industries, Inc.
c/o Joel A. Benoit
Mohan Alewelt Prillaman & Adami
One N. Old Capitol Plaza, Ste. 325
Springfield, IL 62701

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


Phillip McQuillan
Assistant Attorney General

This filing is submitted on recycled paper.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS
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PEOPLE OF THE STATE OF ILLINOIS,
Complainant,
vs.
BRIGGS INDUSTRIES, INC.,
a Michigan corporation,
Respondent.

PCB No. 06-81
(Enforcement)

ENTRY OF APPEARANCE

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

Respectfully submitted,

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

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

BY: Phillip McQuillan
PHILLIP McQUILLAN
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: November 17, 2005

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF)
ILLINOIS,)
)
Complainant,)
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vs.)
)
BRIGGS INDUSTRIES, INC.)
a Michigan corporation,)
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Respondent.)

PCB 06-81
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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, BRIGGS INDUSTRIES, INC., as follows:

COUNT I

WATER POLLUTION VIOLATIONS

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. This Complaint is brought pursuant to Section 31 of the Act, 415 ILCS 5/31 (2002), after providing the Respondent with notice and the opportunity for a meeting with the Illinois EPA.
4. Respondent, Briggs Industries, Inc., is a Michigan corporation not in good standing in Illinois. At all times relevant to this Complaint, the Respondent has been the operator of a facility located in Robinson, Crawford County, Illinois.
5. Briggs Industries, Inc., was sold to Ceramicas Industriales, South America in 1997.

The Robinson facility was closed in August, 1999.

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

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 so as to create a water pollution hazard.

7. 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.

8. 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.

9. 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.

10. On January 13, 2000, the Illinois EPA inspected the facility and observed open dumping of wastewater treatment sludge that created sludge piles.

11. The sludge piles are approximately ten feet above grade with a diameter of approximately 30 feet. The sludge piles consist mainly of sand, clay, a flocculent, and aluminum sulfate.

12. The open dumping of wastewater treatment sludge threatens to discharge contaminants which would cause or tend to cause water pollution by runoff to surface waters and by impact to groundwater.

13. By causing, allowing or threatening the discharge of contaminants to waters of the State so as to cause or tend to cause water pollution in Illinois or to violate the Board's regulations or standards, the Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2002).

14. The open dumping of wastewater treatment sludge is a deposition of contaminants creating a water pollution hazard, both through runoff to surface waters and by impact to groundwater.

15. By depositing contaminants upon the land in such place and manner as to create a water pollution hazard, the Respondent 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 request that the Board enter an order against the Respondent:

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

B. Finding 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 (\$50,000.00) for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000.00) for each day during which each violation has continued thereafter;

E. Awarding to Complainant its costs and reasonable attorney's fees; and

- F. Granting such other relief as the Board may deem appropriate.

COUNT II

OPEN DUMPING VIOLATIONS

1-6. Complainant realleges and incorporates herein by reference paragraphs 1 through 5 and paragraph 10 of Count I as paragraphs 1 through 6 of this Count I.

7. Section 21(a) and 21(p)(1) of the Act, 415 ILCS 5/21(a) and 21(p)(1) (2002), provides, in pertinent part, as follows:

No person shall:

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

* * *

- (p) In violation of subdivision (a) of this Section, cause or allow the open dumping of any waste in a manner which results in any of the following occurrences at the dump site:

- 1) litter;

* * *

8. Section 3.305 of the Act, 415 ILCS 5/3.305 (2002), 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.

9. Section 3.445 of the Act, 415 ILCS 5/3.445 (2002), provides, in pertinent part, as follows:

“SANITARY LANDFILL” means a facility permitted by the Agency for the disposal of waste on land . . . without creating nuisances or hazards to public health or safety, by confining the refuse to the smallest practical volume and covering it with a layer of earth at the conclusion of each day’s operation, or by such other methods and intervals as the Board may provide by regulation.

10. Since on or before January 13, 2000, and continuing through the date of filing of this

Complaint, the Respondent has caused or allowed the open dumping of waste sludge at a disposal site located at its Robinson facility.

11. The disposal site located on the Respondent's property is not permitted by the Illinois EPA as a "sanitary landfill," as that term is defined under Section 3.445 of the Act, 415 ILCS 5/3.445 (2002), nor does the disposal site meet the sanitary landfill requirements of the Act and its regulations.

12. By causing or allowing the open dumping of waste, the Respondent has violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2002).

13. Since on or before January 13, 2000, and continuing through the date of filing of this Complaint, the Respondent has caused or allowed the open dumping of waste in a manner that has resulted in the accumulation of litter at the dump site located at the Robinson facility.

14. By causing or allowing the open dumping of waste in a manner which has resulted in litter at the dump site, the Respondent has violated Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2002).

PRAYER FOR RELIEF

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

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

B. Finding 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 (\$50,000.00) for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000.00) for each


day during which each violation has continued thereafter;

- E. Awarding 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,
ex rel. LISA MADIGAN,
Attorney General of the
State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

BY: 
THOMAS DAVIS
Environmental Bureau
Assistant Attorney General

Of Counsel:
Phillip McQuillan
Assistant Attorney General
500 South Second Street
Springfield, Illinois 62706
217/782-9031