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DEC 01 2005

STATE OF ILLINOIS
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

November 28, 2005

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

PCB06-82

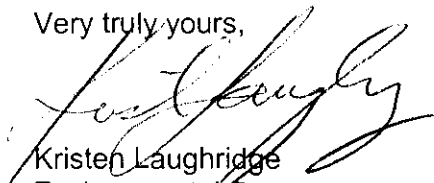
Re: ***People v. Barger Engineering, Inc.***

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,


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

KL/pp
Enclosures



RECEIVED
CLERK'S OFFICE

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

DEC 01 2005

PEOPLE OF THE STATE OF)
ILLINOIS,)
)
Complainant,)
)
vs.)
)
BARGER ENGINEERING, INC., an)
Indiana corporation,)
)
Respondent.)

STATE OF ILLINOIS
Pollution Control Board

PCB No. 06-82
(Enforcement)

NOTICE OF FILING

To: Barger Engineering, Inc.
c/o C. T. Corporation System
208 S. LaSalle St., Suite 814
Chicago, IL 60604-1101

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.

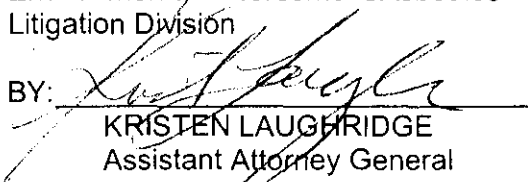
FURTHER, please take notice that financing may be available, through the Illinois Environmental Facilities Financing Act, 20 ILCS 3515/1 (2004), to correct the pollution alleged in the Complaint filed in this case.

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: 
KRISTEN LAUGHRIDGE
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: November 28, 2005

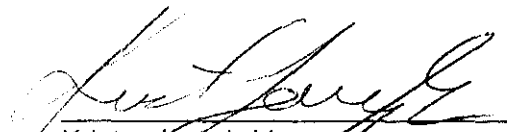
CERTIFICATE OF SERVICE

I hereby certify that I did on November 28, 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: Barger Engineering, Inc.
c/o C. T. Corporation System
208 S. LaSalle St., Suite 814
Chicago, IL 60604-1101

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



Kristen Laughridge
Assistant Attorney General

This filing is submitted on recycled paper.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF)
 ILLINOIS,)
)
 Complainant,)
)
 vs.)
)
 BARGER ENGINEERING, INC., an)
 Indiana corporation,)
)
 Respondent.)

PCB No. 06-82
(Enforcement)

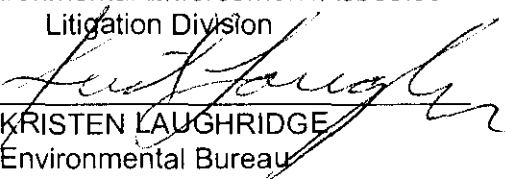
ENTRY OF APPEARANCE

On behalf of the Complainant, PEOPLE OF THE STATE OF ILLINOIS, KRISTEN LAUGHRIDGE, Assistant Attorney General of the State of Illinois, hereby enters her 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: 
 KRISTEN LAUGHRIDGE
 Environmental Bureau
 Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: November 28, 2005

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
vs.) No. 06- 82
) (Enforcement)
)
BARGER ENGINEERING, INC., an)
Indiana corporation,)
)
)
Respondent.)

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of the Respondent, BARGER ENGINEERING, INC., as follows:

COUNT I

WATER POLLUTION VIOLATIONS

1. This action is brought against the Respondent in the name 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 the Illinois Environmental Protection Act ("the Act"), 415 ILCS 5/1 *et seq.* (2004).

2. The Illinois EPA is an agency of the State of Illinois created under Section 4 of the Act, 415 ILCS 5/1 *et seq.* (2004), and is charged, *inter alia*, with the duty of enforcing the Act.

3. The Complaint is brought by the Attorney of the State of Illinois pursuant to Section 31(d) of the Act, 415 ILCS 5/31(d) (2004).

4. The Respondent, Barger Engineering, Inc., is and was at all times relevant to this Complaint an Indiana corporation, currently registered and in good standing with the Illinois Secretary of State's Office.

5. The Respondent is and was at all times relevant to this Complaint the owner of the Phillipstown Unit Water Flood Plant located approximately five miles south of Crossville, White County, Illinois ("facility").

6. On September 23, 2005, a PVC transfer line located at the facility had ruptured and released approximately 1,000 - 1,500 barrels of salt water and 10 to 20 barrels of crude oil.

7. On September 23, 2005, the salt water traveled approximately 1½ miles downstream from the facility into a drainageway and unnamed stream, which drains into the Wabash River. Crude oil and crude oil staining was approximately 1 mile downstream from the facility.

8. The first ½ mile of the discharge consisted of a milky white suspension and black precipitate, as well as heavy areas of crude oil. Crude oil also covered the vegetation within the drainage way.

9. The chloride concentration of the water in the drainageway was at least 6,722 mg/L approximately 1½ miles downstream of the facility.

10. Over 50 small fish, including small minnows and catfish, died approximately 1 1/4 miles downstream from the facility.

11. On September 26, 2005, over 100 more small fish, including minnows and catfish, had been killed about 1 1/4 to 1 ½ miles downstream from the facility.

12. The unnamed stream and Wabash River are a "waters" of the State as that term is defined under Section 3.550 of the Act, 415 ILCS 5/3.550 (2004), as follows:

"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.

13. Section 3.545 of the Act, 415 ILCS 5/3.545 (2004), defines "water pollution" 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.

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

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.

* * *

f) Cause, threaten or allow the discharge of any contaminant into the waters of the State, as defined herein,...without an NPDES permit for point source discharges issued by the Agency under Section 39(b) of this Act...

15. Section 302.203 of the Board's Water Quality Standards Regulations, 35 Ill.

Adm. Code 302.203, provides, in pertinent part, as follows:

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....

16. Section 302.208(g) of the Board's Water Quality Standards Regulations, 35 Ill.

Adm. Code 302.208(g), provides, in pertinent part, as follows:

g) Concentrations of the following chemical constituents shall not be exceeded except in waters for which mixing is allowed pursuant to Section 302.102

Constituent	Unit	STORET Number	Standard
Chloride (total)	mg/L	00940	500

17. By causing or allowing the discharge of approximately 1,000 to 1,500 barrels of salt water and 10 to 20 barrels of crude oil, Respondent created offensive conditions of sludge and floating debris in violation of Section 302.203 of the Board's Water Quality Standards Regulations, 35 Ill. Adm. Code 302.203.

18. By causing or allowing the discharge of approximately 1,000 to 1,500 barrels of salt water, Respondent caused the concentration of chlorides to exceed the regulated standard of 500 mg/L, in violation of Section 302.208(g) of the Board's Water Quality Standards Regulations, 35 Ill. Adm. Code 302.208(g).

19. By causing or allowing the discharge of 1,000 to 1,500 barrels of salt water and 10 to 20 barrels of crude oil into the waters of the State without an NPDES permit, Respondent violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2004).

20. By causing or allowing the discharge of 1,000 to 1,500 barrels of salt water and 10 to 20 barrels of crude oil into waters of the State, Respondent has caused or tended to cause water pollution.

21. By so causing or tending to cause water pollution, Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2004).

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff, People of the State of Illinois, respectfully requests that this Court grant the following relief:

A. Find that Respondent, Barger Engineering, Inc., has violated Section 12(a) and 12(f) of the Act, 415 ILCS 5/12(a), (f) (2004) and Sections 302.203 and 302.208(g) of the Board's Water Quality Standards Regulations, 35 Ill. Adm. Code 302.203, 302.208(g);

B. Order Respondent from to cease and desist from further violations of the Act and associated regulations;

C. Assess against Respondent a monetary penalty of up to fifty thousand dollars (\$50,000) for each violation and up to an additional ten thousand dollars (\$10,000) for each day that the violation has continued;

D. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2004), award the Plaintiff its costs in this matter, including reasonable attorney's fees and expert witness costs; and

E. Grant such other and further relief as this Board deems 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, Chief
Environmental Bureau
Assistant Attorney General

Of Counsel

KRISTEN LAUGHRIDGE
Assistant Attorney General
500 South Second Street
Springfield, Illinois 62706
217/782-9031

Dated: 11/28/05