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DEC 21 2005

STATE OF ILLINOIS
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

December 19, 2005

PCB 06-105

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

Re: ***People v. Paul Monnier***

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,

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

RC/pp
Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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DEC 21 2005

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF)
ILLINOIS,)
)
Complainant,)
)
vs.)
)
PAUL MONNIER,)
)
Respondent.)

PCB No. *06-105*
(Enforcement)

NOTICE OF FILING

To: Paul Monnier
1515 Clinton St.
Warsaw, IL 62379

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.

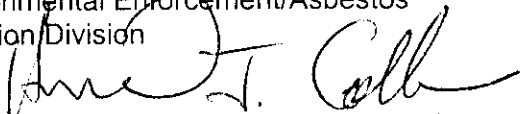
Respectfully submitted,

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:


RAYMOND CALLERY
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: December 19, 2005

CERTIFICATE OF SERVICE

I hereby certify that I did on December 19, 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: Paul Monnier
1515 Clinton St.
Warsaw, IL 62379

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

A handwritten signature in black ink, appearing to read 'Raymond Callery', written over a horizontal line.

Raymond Callery
Assistant Attorney General

This filing is submitted on recycled paper.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD **RECEIVED**
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PEOPLE OF THE STATE OF)
ILLINOIS,)
)
Complainant,)
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vs.)
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Pollution Control Board

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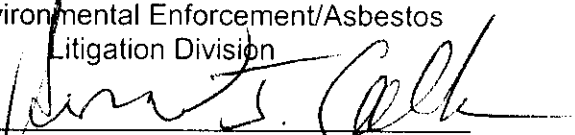
ENTRY OF APPEARANCE

On behalf of the Complainant, PEOPLE OF THE STATE OF ILLINOIS, RAYMOND CALLERY, 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: 
RAYMOND CALLERY
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
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Dated: December 19, 2005

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
vs.)
)
PAUL MONNIER,)
)
Respondent.)

No. 06- 105
(Enforcement)

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, PAUL MONNIER, as follows:

COUNT I
WATER POLLUTION HAZARD VIOLATIONS

1. This Count is brought by the 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 terms and provisions of 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 in proceedings before the Illinois Pollution Control Board.
3. The Complaint is brought pursuant to Section 31 of the Act, 415 ILCS 5/31 (2004), after providing the Respondent with notice and opportunity for a meeting with the Illinois EPA.
4. West Central FS, Inc., is an agricultural cooperative, in good standing, organized on April 1, 2001, under the provisions of the Agricultural Co-operative Act, 805 ILCS 315/1 et

seq. (2004). West Central owns and operates an agrichemical facility in West Point, Hancock County, Illinois.

5. Paul Monnier, at all times relevant to this Complaint, was an employee of West Central FS Inc. at the West Point facility and resided at a farm approximately 3 miles northeast of West Point.

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

No person shall:

* * *

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

* * *

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

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

8. Section 3.395 of the Act, 415 ILCS 5/3.395 (2004), provides in pertinent part:

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

9. Section 3.545 of the Act, 415 ILCS 5/3.545 (2004), 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.

10. Section 3.550 of the Act, 415 ILCS 5/3.550 (2004), 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.

11. On May 31, 2002, the Illinois EPA investigated a complaint regarding the disposal of agrichemicals in a roadside ditch in a rural area 3 miles northeast of West Point. The Illinois EPA observed that the ditch on the north side of the gravel road was wet and discolored by a yellowish material and that vegetation within the ditch was dead or damaged. Within the ditch, the damaged vegetation and yellow stain extended approximately 270 feet.

12. The Illinois EPA determined that the ditch drained toward the southeast. Drainage from the ditch would then pass through a cattle pasture before entering Slater Creek, which is a "waters" of the State as defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2004). The distance between the damaged vegetation and yellow stain within the ditch and the point at which drainage from the ditch and cattle pasture enters Slater Creek is approximately a quarter-mile.

13. The Illinois EPA collected soil samples from the ditch on May 31, 2002. The analytical results subsequently indicated significant levels (as measured in parts per billion) of several herbicides, to wit:

<u>Herbicide</u>	<u>Sample #1</u>	<u>Sample #2</u>
Alachlor	280	22,000
Acetochlor	5,100	470,000
Atrazine	400,000	380,000
Cyanazine	970	2,500
Metolachlor	19,000	420,000
Pendimethalin	240,000	2,300,000
Trifluralin	3,100	65,000

14. On a date better known to the Respondent, Paul Monnier obtained an unknown quantity of rinsate from West Central's facility. This rinsate is generated by West Central

through the rinsing of the spray-applicators to remove herbicide residues and contained in aboveground storage tanks for future reuse by Central West. Paul Monnier thereafter intentionally pumped, poured, or dumped this rinsate in the roadside ditch adjacent to his farm residence. The amount of the rinsate was such that the damaged vegetation and yellow stain extended approximately 270 feet within the ditch.

15. The rinsate contains "contaminants" as that term is defined at Section 3.165 of the Act, 415 ILCS 5/3.165 (2004).

16. By causing or allowing the rinsate to be deposited upon the land within the drainage way, and by subsequently failing to remove such contaminated soils or sediments, the Respondent has created a water pollution hazard, and thereby 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 enter an Order against the Respondent, Paul Monnier:

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

B. Finding that the 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. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2004), impose a civil penalty of not more than the statutory maximum;

- E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2004), award the Complainant its costs in this matter, including reasonable attorney's fees and costs; and
- F. Grant such other and further relief as the Board deems appropriate.

COUNT II

WASTE DISPOSAL VIOLATIONS

1-15. Plaintiff realleges and incorporates herein paragraphs 1 through 15 of Count I as paragraphs 1 through 15 of this Count II.

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

No person shall:

- a. Cause or allow the open dumping of any waste.
- b. Abandon, dump, or deposit any waste upon the public highways or other public property. . . .

* * *

- e. Dispose, treat, store or abandon any waste . . . except at a site which meets the requirements of this Act and of regulations and standards thereunder.

* * *

17. Section 3.185 of the Act, 415 ILCS 5/3.185 (2004), provides:

"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.

18. Section 3.535 of the Act, 415 ILCS 5/3.535 (2004), provides:

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

19. As a liquid material containing contaminants and resulting from commercial operations, the rinsate is a "waste" as that term is defined at Section 3.535 of the Act, 415 ILCS 5/3.535 (2004).

20. The roadside ditch is adjacent to public highways or and constitutes other public property as referenced in Section 21(b) of the Act, 415 ILCS 5/21(b) (2004).

21. The roadside ditch is a site or facility that does not meet the requirements of this Act and of the regulations and standards thereunder, for waste disposal, as referenced in Section 21(e) of the Act, 415 ILCS 5/21(e) (2004).

22. By depositing, dumping, or abandoning this rinsate in the roadside ditch adjacent to his farm residence, in such an amount that the damaged vegetation and yellow stain extended approximately 270 feet within the ditch, the Respondent has caused or allowed open dumping and thereby violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2004).

23. By depositing, dumping, or abandoning this rinsate in the roadside ditch adjacent to his farm residence, in such an amount that the damaged vegetation and yellow stain extended approximately 270 feet within the ditch, the Respondent has deposited, dumped, or abandoned waste upon public property and thereby violated Section 21(b) of the Act, 415 ILCS 5/21(b) (2004).

24. By depositing, dumping, or abandoning this rinsate in the roadside ditch adjacent to his farm residence, in such an amount that the damaged vegetation and yellow stain extended approximately 270 feet within the ditch, the Respondent has disposed of waste at a site or facility that does not meet the requirements of this Act and of the regulations and standards thereunder and thereby violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2004).

PRAYER FOR RELIEF

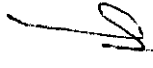
WHEREFORE, the Complainant, People of the State of Illinois, respectfully requests that this Board enter an Order against the Respondent, Paul Monnier:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that the 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. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2004), impose a civil penalty of not more than the statutory maximum;
- E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2004), award the Complainant its costs in this matter, including reasonable attorney's fees and costs; and
- F. Grant such other and further relief as the Board deems 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

Of Counsel
RAYMOND CALLERY
Assistant Attorney General
500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: 12/19/05