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DEC 27 2005

OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

STATE OF ILLINOIS
Pollution Control Board

Lisa Madigan
ATTORNEY GENERAL

December 22, 2005

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

PCB 06-115

Re: ***People v. National City Environmental, LLC, et al.***

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,

Delbert D. Haschemeyer
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706
(217) 782-9031

DDH/pp
Enclosures

ORIGINAL

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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CLERK'S OFFICE

DEC 27 2005

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF)
ILLINOIS,)

Complainant,)

vs.)

NATIONAL CITY ENVIRONMENTAL,)
LLC, an Illinois limited liability)
corporation, and NATIONAL CITY)
RECYCLING, LLC, an Illinois limited)
liability corporation,)

Respondent.)

PCB No. *α-115*
(Enforcement)

NOTICE OF FILING

To: NATIONAL CITY ENVIRONMENTAL, LLC
c/o JB Corporate Services, Inc.
One IBM Plaza, Suite 3700
Chicago, IL 606011

NATIONAL CITY RECYCLING, LLC
c/o JB Corporate Services, Inc.
One IBM Plaza, Suite 3700
Chicago, IL 606011

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:


DELBERT D. HASCHEMEYER
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: December 22, 2005

ORIGINAL

CERTIFICATE OF SERVICE

RECEIVED
CLERK'S OFFICE
DEC 27 2005
STATE OF ILLINOIS
Pollution Control Board

I hereby certify that I did on December 22, 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: NATIONAL CITY ENVIRONMENTAL, LLC
c/o JB Corporate Services, Inc.
One IBM Plaza, Suite 3700
Chicago, IL 60601

NATIONAL CITY RECYCLING, LLC
c/o JB Corporate Services, Inc.
One IBM Plaza, Suite 3700
Chicago, IL 60601

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


Delbert D. Haschemeyer
Assistant Attorney General

This filing is submitted on recycled paper.

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF
ILLINOIS,

Complainant,

vs.

NATIONAL CITY ENVIRONMENTAL,
LLC, an Illinois limited liability
corporation, and NATIONAL CITY
RECYCLING, LLC, an Illinois limited
liability corporation,

Respondents.

PCB No. 06-115
(Enforcement)

ENTRY OF APPEARANCE

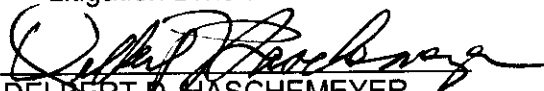
On behalf of the Complainant, PEOPLE OF THE STATE OF ILLINOIS, DELBERT D. HASCHEMEYER, Assistant Attorney General of the State of Illinois, hereby enters his appearance as attorney of record.

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:


DELBERT D. HASCHEMEYER
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: December 22, 2005

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STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)

Complainant,)

vs.)

NATIONAL CITY ENVIRONMENTAL,)
LLC, an Illinois limited liability)
corporation, and NATIONAL CITY)
RECYCLING, LLC, an Illinois limited)
liability corporation,)

Respondents.)

PCB No. 06-115
(Enforcement)

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondents, NATIONAL CITY ENVIRONMENTAL, LLC, and NATIONAL CITY RECYCLING, LLC, as follows:

COUNT I

PERMIT VIOLATIONS AT THE NORTHWEST UNIT (ACTIVE AREA)

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 the terms and conditions of Section 42 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/42 (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. At all times relevant to this complaint, NATIONAL CITY ENVIRONMENTAL, LLC, was the owner and NATIONAL CITY RECYCLING, LLC, was the operator of a facility located in National City, St. Clair County, Illinois ("facility"). The facility is commonly known as, and the

Respondents are hereinafter collectively referred to as, "St. Louis Auto Shredding."

4. The operations of St. Louis Auto Shredding at the facility include the shredding of automobiles and white goods (e.g. household appliances), the recycling of materials, and the disposal of waste in on-site landfills, which are designated as the Northwest Unit (Active Area) and the Southeast Unit (Closed Area).

5. The Southeast Unit has been closed under the 807 regulations and ceased accepting waste in September 1992. The Northwest Unit operates under the 814 Subpart C regulations.

6. The Illinois EPA has previously issued permits to St. Louis Auto Shredding, including Permits 1994-065-LFM and 1996-293-SP.

7. Permit 1994-065-LFM, Vol. II, ch. 5, pp. 19-20 - Elimination of Trench 3, provides:

The NW fill area was originally permitted for development in 1976. . . . The waste in Trench 3 will be removed so that the liner and leachate drainage/collection systems may be installed over the entire NW fill area. . . . Alternatively, St. Louis Auto Shredding may submit for approval, a modified design for this portion of the site (eliminating the need for removal) or a modified design appropriate for disposal of the waste as characterized.
...

8. Permit 1994-065-LFM, Condition V.10, provides:

The following monitoring points are to be used in the groundwater detection monitoring program for this facility (Wells G32M, G33M and G34M shall be installed in locations shown on Figure 1 of the addendum dated February 27, 2001 to Application Log No. 2000-362) . . . #G32M, #G33M and #G34M Installation date @ 15 May 2001 . . . @ Wells must be installed in order to obtain 2nd quarter 2001 sampling.

9. Permit 1994-065-LFM, Condition V.12(d), provides:

The application groundwater quality standards (AGQS) are subject to the following conditions:

* * *

d. AGQS values must be determined for all of the parameters which appear in either Lists G1 or G2. AGQS values must also be

established for the dissolved constituents listed in G1. These shall be proposed in a permit application to be submitted to the Illinois EPA no later than October 31, 1994. The AGQS values shall be calculated using the statistical method described on page 15 of Attachment 11 to the application, Log No. 1994-065.

10. Permit 1994-065-LFM, Condition V.14, provides:

A complete listing of MAPC's for each parameter listed in Condition V.12 for each well within the zone of attenuation identified in Condition V.10 shall be proposed in a permit application to be submitted to the Illinois EPA no later than October 31, 1994.

11. Permit 1994-065-LFM, Condition V.17, provides:

Within 90 days of confirmation of any monitored increase, the operator shall submit a permit application for significant modification to begin an assessment monitoring program in order to determine whether the solid waste disposal facility is the source of the contamination and to provide information needed to carry out a groundwater impact assessment in accordance with 35 IAC 811.819(b).

12. Permit 1994-065-LFM, Condition V.221, provides:

The operator shall implement the revised assessment monitoring plan dated July 13, 2000, and approved as Modification No. 2. . . . All data collected during assessment and the results of the assessment activities shall be submitted to the Illinois EPA, along with findings and recommendations as an application for significant modification no later than December 31, 2001. During assessment monitoring and pending approval of the assessment report, piezometers P26M, P22M and P24M shall be monitored in accordance with Special Condition V.12 and V.20.

13. Per permit 1994-065-LFM, St. Louis Auto Shredding was to submit maximum allowable predicted concentrations ("MAPC") and applicable groundwater quality standards ("AGQS") values in order to determine site-specific groundwater quality standards. St. Louis Auto Shredding did submit the AGQS values via a permit application in July 1996, but the application was denied by the Illinois EPA in September 1996.

14. In October 1998, the Illinois EPA conducted a groundwater sampling event and a groundwater compliance inspection. As a result of this inspection, the Illinois EPA determined the existence of various compliance deficiencies; the Illinois EPA subsequently issued violation notices

("VN") to the site owner and operator. In St. Louis Auto Shredding's Compliance Commitment Agreement, the Respondents pledged to submit the MAPC and AGQS proposed values as a permit application by April 1999. This application was received as #199-146, but contained deficiencies. St. Louis Auto Shredding requested a meeting with the Illinois EPA in September 1999, and the result was that the Respondents agreed to submit an Assessment Plan by November 1999.

15. The Assessment Plan was submitted and approved by the Illinois EPA. From the Assessment Plan, a Groundwater Assessment Report was submitted to the Illinois EPA as permit application 2002-182. This Assessment Report was to contain additional data and information essential for review of applications 1999-146 and 1999-134. On January 31, 2003, permit applications 2002-182, 1999-134 and 1999-146 were denied.

16. Thus, at all times relevant to this complaint, continuing until on or about January 21, 2005, St. Louis Auto Shredding has disposed of waste in the Northwest Unit (Active Area) without an operating permit issued by the Illinois EPA.

17. On November 26, 2002, and February 3, 2003, the Illinois EPA conducted inspections of the facility.

18. As a result of these inspections, the Illinois EPA issued VN —2002-01055 and M-2002-1057 to the Respondents. A meeting between St. Louis Auto Shredding and the Illinois EPA was held on April 18, 2003. On May 1, 2003, St. Louis Auto Shredding submitted a revised Compliance Commitment Agreement and waived the requirements of Section 31.

19. Permit 1994-065-LFM requires that St. Louis Auto Shredding install liner and leachate drainage/collection systems within the Northwest Unit (Active Area); this installation as originally designed would first require the removal of waste from a portion of the Northwest Unit (Active Area) designated as Trench 3. This permit allows, alternatively, St. Louis Auto Shredding to submit to the Illinois EPA a modified design for this portion (eliminating the need for removal)

or a modified design appropriate for disposal of the waste as characterized.

20. Commencing on some date known to Respondent and continuing to some date known to Respondent, St. Louis Auto Shredding has failed to either remove the waste from Trench 3 of the Northwest Unit (Active Area) or submit to the Illinois EPA a modified design for this portion.

21. Permit 1994-065-LFM, Conditions V.3c and V.3d, also requires that St. Louis Auto Shredding shall sample and test upgradient wells twice. By December 31, 1994, the operator shall submit to the Illinois EPA an application for significant modification which includes the following information:

* * *

- c. The groundwater data from at least two sampling events, including an evaluation, comparing the AGQS values listed in Condition V.12 of this permit to the new data from upgradient wells G20S, G20M and G20D.
- d. If the new groundwater data indicates a significant change from the AGQS values in this permit, the operator shall include a reevaluation of the groundwater impact assessment and a proposal for the establishment of new AGQS and MAPC values.

One of the primary purposes of such an application is to provide a re-evaluation of the groundwater impact assessment in the event that sampling data indicates a significant change in groundwater quality. At all times relevant to this complaint, St. Louis Auto Shredding has failed to submit to the Illinois EPA an approved application for the significant modification of permit to address the necessary groundwater issues.

22. Commencing on some date known to Respondent, St. Louis Auto Shredding has failed to install groundwater monitoring wells as specified in permit 1994-065-LFM, Condition V.10, to-wit: wells G32M, G33M and G34M.

23. Permit 1994-065-LFM, Condition V.12(d), requires that AGQS values must be determined for all of the parameters which appear in either Lists G1 or G2. These were to be

proposed in a permit application to be submitted to the Illinois EPA by no later than October 31, 1994. To date, no approved application for significant modification containing AGQS values has been submitted to the Illinois EPA.

24. Permit 1994-065-LFM, Condition V.14, requires a complete listing of MAPC's for each parameter listed in Condition V.12 for each well within the zone of attenuation identified in Condition V.10 to be proposed in a permit application submitted to the Illinois EPA no later than October 31, 1994. To date, no approved MAPC list has been submitted as a permit application to the Illinois EPA.

25. Permit 1994-065-LFM, Condition V.17, requires that within 90 days of confirmation of any monitored increase, the operator shall submit a permit application for significant modification to begin an assessment monitoring program in order to determine whether the solid waste disposal facility is the source of the contamination and to provide information needed to carry out a groundwater impact assessment in accordance with 35 Ill. Adm. Code 811.319(b). To date, no permit has been acquired for a significant modification to begin an assessment monitoring program has been submitted to the Illinois EPA, although the facility has monitored increases as defined by Condition V.16.

26. Permit 1994-065-LFM, Condition V.21, requires that the operator shall implement the revised assessment monitoring plan dated July 13, 2000, and approved as Modification No. 2. All data collected during assessment and the results of the assessment activities shall be submitted to the Illinois EPA, along with findings and recommendations as an application for significant modification no later than December 31, 2001. To date, no approved assessment report has been submitted, as the assessment report which was submitted as permit application 2002-182 was denied by the Illinois EPA on January 21, 2003.

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

No person shall:

* * *

- d. Conduct any waste-storage, waste-treatment, or waste-disposal operation:
 - 1. Without a permit granted by the Agency or in violation of any conditions imposed by such permit. . . . ; or
 - 2. In violation of any regulations or standards adopted by the Board under this Act; or

* * *

- 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.

* * *

28. By conducting waste-disposal operation in the Northwest Unit (Active Area) without an operating permit issued by the Illinois EPA, the Respondents have violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2004).

29. By failing to either timely remove the waste from Trench 3 of the Northwest Unit (Active Area) or submit to the Illinois EPA a modified design for this portion, the Respondents violated Permit 1994-065-LFM and thereby violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2004).

30. By failing to submit to the Illinois EPA an approved application for the significant modification of permit to address the necessary groundwater issues, the Respondents have violated Permit 1994-065-LFM, Conditions V.3c and V.3d and thereby violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2004).

31. By failing to timely install groundwater monitoring wells as specified, to-wit: wells G32M, G33M and G34M, the Respondents have violated Permit 1994-065-LFM, Condition V.10

and thereby violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2004).

32. By failing to submit to the Illinois EPA an approved application for significant modification containing AGQS values, the Respondents have violated Permit 1994-0665-LFM, Condition V.12(d) and thereby violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2004).

33. By failing to submit to the Illinois EPA an approved MAPC list as a permit application to the Illinois EPA, Respondents have violated Permit 1994-065-LFM, Condition V.14 and thereby violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2004).

34. By failing to submit a permit application for a significant modification to begin an assessment monitoring program to the Illinois EPA, although the facility monitored increases as defined by Condition V.16, the Respondents have violated Permit 1994-065-LFM, Condition V.17 and thereby violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2004).

35. By failing to submit an approved assessment report to the Illinois EPA, the Respondents have violated Permit 1994-065-LFM, Condition V.21 and thereby violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2004).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondents, NATIONAL CITY ENVIRONMENTAL, LLC, and NATIONAL CITY RECYCLING, LLC, as follows:

- A. Authorizing a hearing in this matter at which time the Respondents will be required to answer the allegations herein;
- B. Finding that Respondents have violated the Act and regulations as alleged herein;
- C. Ordering Respondents 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 up to 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. Pursuant to Section 42(f) of the Act, 415 ILCS 52(f) (2004), awarding to Complainant its costs and reasonable attorney's fees; and

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

COUNT II

PERMIT VIOLATIONS AT SOUTHEAST UNIT (CLOSED AREA)

1-27. Complainant realleges and incorporates by reference herein paragraphs 1 through 27 of Count I as paragraphs 1 through 27 of this Count II.

28. Permit 1996-293-SP, Attachment A, Monitoring Program, Item 6.b., provides:

The permittee shall conclude that a significant change in groundwater quality has occurred if . . . the value for any parameter exceeds: The Class I groundwater quality standards listed in Subpart D of 35 IAC 620 Standards (this class applies until an adequate determination has been made by the Permittee that another class applies pursuant to Subpart B of 35 IAC 620 Standards.)

29. Permit 1996-293-SP, Attachment A, Monitoring Program, Item 8.b., provides:

In the event a significant change in groundwater quality has occurred or has been confirmed, the permittee shall: Submit an assessment monitoring plan within 30 days of the significant change as determined in Item No. 6 or No. 7 above in the form of a supplemental permit application. The assessment monitoring plan shall include appropriate methods for determining the source of the increase, the potential threat to human health and the environment and the concentration and extent of the contaminants if any. The assessment monitoring plan shall, at a minimum, include expanded sampling requirements for the affected well(s) and shall be implemented within 30 days of approval from the Illinois EPA.

30. Permit 1996-293-SP, requires that St. Louis Auto Shredding determine from the groundwater sampling data whether the Class I groundwater quality standards have been exceeded. One of the primary purposes of such determination is to propose pursuant to permit

1996,293-SP, Attachment A, Monitoring Program, Item 8.b, a groundwater assessment monitoring plan in the event that sampling data indicates a significant change in groundwater quality.

31. At all times relevant to this complaint, St. Louis Auto Shredding has failed to submit to the Illinois EPA a determination from the groundwater sampling data whether the Class I groundwater quality standards have been exceeded.

32. At all times relevant to this complaint, St. Louis Auto Shredding has failed to submit a ground water assessment monitoring plan to the Illinois EPA.

33. By failing to submit to the Illinois EPA a determination from the groundwater sampling data whether the Class I groundwater quality standards have been exceeded, the Respondents have violated Permit 1996-293-SP, Attachment A, Monitoring Program, Item 6.b., and thereby violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2004).

34. By failing to submit a ground water assessment monitoring plan to the Illinois EPA, the Respondents have violated Permit 1996-293-SP, Attachment A, Monitoring Program, Item 8.b., and thereby violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2004).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondents, NATIONAL CITY ENVIRONMENTAL, LLC, and NATIONAL CITY RECYCLING, LLC, as follows:

- A. Authorizing a hearing in this matter at which time the Respondents will be required to answer the allegations herein;
- B. Finding that Respondents have violated the Act and regulations as alleged herein;
- C. Ordering Respondents 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 up to 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. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2004), awarding to Complainant its costs and reasonable attorney's fees; and

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

COUNT III

WASTE DISPOSAL VIOLATIONS

1-27. Complainant realleges and incorporates by reference herein paragraphs 1 through 27 of Count I as paragraphs 1 through 27 of this Count III.

28. Section 807.313 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 807.313, provides as follows:

No person shall cause or allow operation of a sanitary landfill so as to 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 the Act.

29. Section 807.315 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 807.315, provides as follows:

No person shall cause or allow the development or operation of a sanitary landfill unless the applicant proves to the satisfaction of the Agency that no damage or hazard will result to waters of the State because of the development and operation of the sanitary landfill.

30. At all times relevant to this complaint, St. Louis Auto shredding has disposed of waste at a site that does not meet the requirements of the Act and the regulations thereunder.

31. At all times relevant to this complaint, St. Louis Auto Shredding has allowed the discharge of contaminants into the groundwater as prohibited by Section 807.313 of the Board's

Waste Disposal Regulations, 35 Ill. Adm. Code 807.33.

32. At all times relevant to this complaint, St. Louis Auto Shredding has caused or allowed the development or operation of a sanitary landfill without proving to the satisfaction of the Illinois EPA that no damage or hazard will result to waters of the State because of the development and operation of the sanitary landfill as prohibited by Section 807.315 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 807.315.

33. By disposing of waste at a site that does not meet the requirements of the Act and the regulations thereunder, the Respondents have violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2004).

34. By conducting waste-disposal operations in violation of the regulations or standards adopted by the Board under this Act, the Respondents have violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2004).

35. These violations have been wilful, knowing or repeated and will continue unabated unless and until enjoined by this Court.

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondents, NATIONAL CITY ENVIRONMENTAL, LLC, and NATIONAL CITY RECYCLING, LLC, as follows:

- A. Authorizing a hearing in this matter at which time the Respondents will be required to answer the allegations herein;
- B. Finding that Respondents have violated the Act and regulations as alleged herein;
- C. Ordering Respondents 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 up to 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 such violations continued;

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2004), awarding to Complainant its costs and reasonable attorney's fees; and

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

COUNT IV

WATER POLLUTION VIOLATIONS

1-27. Complainant realleges and incorporates by reference herein paragraphs 1 through 27 of Count I as paragraphs 1 through 27 of this Count IV.

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

No person shall:

- a. Cause or threaten or allow the discharge of any contaminants into the environment in an 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;

29. Section 3.170 of the Act, 415 ILCS 5/3.170 (2004), provides as follows:

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

30. 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.

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

32. Section 620.405 of the Board's Groundwater Quality Standards, 35 Ill. Adm. Code 620.405, provides as follows:

No person shall cause, threaten or allow the release of any contaminant to groundwater so as to cause a groundwater quality standard set forth in this Subpart to be exceeded.

- a) Inorganic Chemical Constituents:

* * *		
Constituent	Units	Standard
* * *		
Boron	mg/L	2.0
* * *		
Iron	mg/L	5.0
* * *		
Manganese	mg/L	0.15
* * *		
Sulfate	mg/L	400.0
* * *		
Total Dissolved Solids (TDS)	mg/L	1,200
* * *		

- b) Organic Chemical Constituents:

* * *	
Constituent	Standard (mg/L)
* * *	

Vinyl Chloride*

0.002

* * *

*Denotes a carcinogen.

34. During the November 26, 2002, inspection, the Illinois EPA noted the following in its review of the facility's groundwater for the May 2002 sampling event:

SOUTHEAST UNIT

Well Number	Contaminant	Sample Result Total ug/l	Class I Standard Exceedance Total ug/l
G10S	Boron	2630	2000
	Iron	40800	5000
	Manganese	1340	150
	TDS	2470	1200
G10M	Iron	24500	5000
	Manganese	1760	150
G10D	Iron	20200	5000
	Manganese	336	150
	TDS	1650	1200
	Vinyl Chloride	7.08	2
G12S	Iron	39200	5000
	Manganese	4650	150
G12M	Iron	9620	5000
	Manganese	590	150
G12D	Iron	17000	5000
	Manganese	420	150
G13S	Sulfate	406 mg/l	400 mg/l
	Manganese	451	150

G14S	Boron	2410	2000
	Iron	18900	5000
	Manganese	2570	150
	TDS	1470	1200
G14M	Iron	12400	5000
	Manganese	1160	150
G15S	Sulfate	631 (mg/l)	400 (mg/l)
	Iron	51100	5000
	Manganese	1460	150
	TDS	2470	1200
G16S	Boron	8670	2000
	Manganese	6270	150
	TDS	1560	1200

NORTHWEST UNIT

Well Number	Contaminant	Sample Result Total ug/l	GW Limit Total ug/l
G21S	Selenium	6	4
G23S	Acetone	3.85	3 (AGQS value)
G24S	Sulfate	1450	637.431
G27S	Benzene	8.18	5 (Class I GW 620 Standards)
	Acetone	3.39	3
G28S	Sulfate	1570	637.431
G29S	Acetone	3.37	3

35. Subsequent to the November 26, 2002, inspection, the Illinois EPA inspector noted that benzene had been elevated at downgradient well G27S for some time. In 2001, benzene tested at 8.0 ug/l on March 3, 2001, 6.8 ug/l on September 8, 2001 and 7.6 ug/l on October 27,

2001.

36. At all times relevant to this complaint, St. Louis Auto Shredding has deposited contaminants upon the land in such place and manner so as to create a water pollution hazard and has caused, threatened or allowed the discharge of contaminants into the environment, including the groundwater, so as to cause or tend to cause water pollution in Illinois, or so as to violate regulations or standards adopted by the Board.

37. At all times relevant to this complaint, St. Louis Auto Shredding has caused, threatened or allowed the release of contaminants into the groundwater so as to cause groundwater quality standards for boron, iron, manganese, sulfate, total dissolved solids, and vinyl chloride to be exceeded.

38. By depositing contaminants upon the land in such place and manner so as to create a water pollution hazard, the Respondents have violated 12(d) of the Act, 415 ILCS 5/12(d) (2004).

39. By causing, threatening, or allowing the discharge of contaminants into the environment so as to cause or tend to cause water pollution, the Respondents have violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2004).

40. By causing, threatening, or allowing the release of contaminants into the groundwater so as to cause groundwater quality standards for boron, iron, manganese, sulfate, total dissolved solids, and vinyl chloride to be exceeded, the Respondents have violated Sections 620.405 and 620.410 of the Board's Groundwater Quality Standards, 35 Ill. Adm. Code 620.405 and 620.410, and thereby violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(21) (2004).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondents, NATIONAL CITY ENVIRONMENTAL, LLC, and NATIONAL CITY RECYCLING, LLC, as follows:.

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

B. Finding that Respondents have violated the Act and regulations as alleged herein;

C. Ordering Respondents 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 up to 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. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2004), awarding to Complainant its costs and reasonable attorney's fees; and

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

COUNT V

MARCH 24, 2003, OPEN DUMPING VIOLATIONS

1-5. Complainant realleges and incorporates by reference herein paragraphs 1 through 4 and 27 of Count I as paragraphs 1 through 5 of this Count V.

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

No persons 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.

* * *

7. Section 3.305 of the Act, 415 ILCS 5/3.305 (2004), provides the following definition:

"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.

8. Section 3.445 of the Act, 415 ILCS 5/3.445 (2004), provides the following definition:

"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, and regulations thereunder, and 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.

9. Section 721.102(e)(2)(C) of the Board's regulations, 35 Ill. Adm. Code 721.102(e)(2)(C), provides:

(e)(2) The following materials are solid wastes, even if the recycling involves use, reuse, or return to the original process (described in subsections (e)(1)(A) through (e)(1)(C) of this Section:

* * *

(C) Materials accumulated speculatively;

10. Section 721.101(c)(8) of the Board's regulations, 35 Ill. Adm. Code 721.101(c)(8), provides:

(c) For purposes of Sections 721.102 and 721.106:

* * *

(8) A material is "accumulated speculatively" if it is accumulated before being recycled. A material is not accumulated speculatively, however, if the person accumulating it can show that the material is potentially recyclable and had a feasible means of being recycled; and that - during the calendar year (commencing on January 1) - the amount of material that is recycled, or transferred to a different site for recycling, equals at least 75 percent by weight or volume of the amount of that material accumulated at the beginning of the period. In calculating the percentage of turnover, the 75 percent requirement is to be applied to each material of the same type (i.e., slags from a single smelting process) that is

recycled in the same way (i.e., from which the same material is recovered or that is used in the same way). Materials accumulating in units that would be exempt from regulation under Section 721.104(c) are not to be included in making the calculation. (Materials that are already defined as solid wastes also are not to be included in making the calculation). Materials are no longer in this category once they are removed from accumulation for recycling, however.

11. On March 24, 2003, the Illinois EPA conducted an inspection of the facility.

During the site visit, the Illinois EPA spoke with the site superintendent who stated that no waste auto fluff had been removed from the site since 1997, and the unprocessed auto fluff pile was awaiting one or two final processes. One of these final processes is through the Heavy Media Building and the other process is the Eddy Current System (ECS). According to the 2002 year end Illinois Nonhazardous Special Waste annual Report Site Information Form submitted by the facility, the facility had on site 167,335 cubic yards of unprocessed auto fluff, which has been accumulating since the beginning of 1998.

12. During the March 24, 2003, site visit, the Illinois EPA estimated the accumulation was approximately 175,000 cubic yards. At the southern edge of the L-shaped pile, the Illinois EPA observed a water hose at the base of the pile and a water sprinkler at the top of the pile. A small pile of dirt for fire control purposes was also located nearby.

13. According to 35 Ill. Adm. Code 721.102(e)(2)(C) and 721.101(c)(8), this unprocessed auto fluff is a speculatively accumulated material and, thus, may be classified as waste.

14. Based on the March 24, 2003, site visit, Violation Notices, dated May 20, 2003, were sent to the Respondents. On October 9, 2003, the Illinois EPA mailed subsequent Notices of Intent to Pursue Legal Action letters to the Respondents.

15. On a date better known to the Respondents, but no later than 1997 and continuing through the date on which this Complaint is filed, the Respondents have caused or allowed the

open dumping of waste at a disposal site upon its property. The site is not permitted by the Illinois EPA as a sanitary landfill, nor does the disposal site meet the requirements of the Act and of the regulations and the standards promulgated thereunder.

16. By causing or allowing the open dumping of waste, the Respondents have violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2004).

17. On a date better known to the Respondents, but no later than 1997 and continuing through the date on which this Complaint is filed, the Respondents have disposed or stored waste at a site upon its property, or transported waste for disposal or storage to a site upon its property, and such site does not meet the requirements of the Act and of the standards and regulations promulgated thereunder.

18. By disposing or storing or transporting waste at or to a site which does not meet the requirements of the Act and of the standards and regulations promulgated thereunder, the Respondents have violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2004).

19. On a date better known to the Respondents, but no later than 1997 and continuing through the date on which this Complaint is filed, the Respondents have caused or allowed the open dumping of waste in a manner which has resulted in litter.

20. By causing or allowing the open dumping of waste in a manner which has resulted in litter at or from the dump site, the Respondents have violated Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2004).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondents, NATIONAL CITY ENVIRONMENTAL, LLC, and NATIONAL CITY RECYCLING, LLC, as follows:.

A. Authorizing a hearing in this matter at which time the Respondents will be required

to answer the allegations herein;

B. Finding that Respondents have violated the Act and regulations as alleged herein;

C. Ordering Respondents 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 up to 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. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2004), awarding to Complainant its costs and reasonable attorney's fees; and

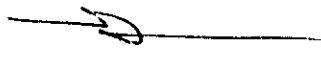
F. Granting such other relief as the Board may deem appropriate.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
ex rel. LISA MADIGAN,
Attorney General of the State
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MATTHEW J. DUNN, Chief
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BY:


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Dated:

12/21/05