

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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| PEOPLE OF THE STATE OF ILLINOIS, |) | |
| |) | |
| Complainant, |) | |
| |) | |
| v. |) | PCB 06-82 |
| |) | |
| BARGER ENGINEERING, INC., an |) | |
| Indiana Corporation, |) | |
| |) | |
| Respondent. |) | |

ANSWER

NOW COMES Respondent, BARGER ENGINEERING, INC. by its attorneys Sorling, Northrup, Hanna, Cullen & Cochran, Ltd, Charles J. Northrup, of Counsel, and for its Answer to Complainant's Complaint states as follows:

COUNT I
(Water Pollution Violations (September 23, 2005))

1. Respondent neither admits nor denies the allegations set out in paragraph one and further states it possesses insufficient knowledge to form a belief as to the allegations.
2. Respondent admits the allegations set out in paragraph two.
3. Respondent admits the allegations set out in paragraph three.
4. Respondent admits the allegations set out in paragraph four.
5. Respondent admits the allegations set out in paragraph five.
6. Respondent admits that on September 23, 2005 a leak occurred from a PVC line at the identified facility and that approximately 1,000 to 1,500 barrels of salt water were released. Respondent neither admits nor denies that the subject line "ruptured" as that term is vague and ambiguous. Respondent further denies that 10 to 20 barrels of crude oil were released, but suggests that only 5 to 10 barrels of crude oil may have been released.

7. Respondent admits that the saltwater from the September 23, 2005 leak traveled approximately 1 ½ miles from the leak site. Respondent denies the remaining allegations in paragraph seven.

8. Respondent neither admits nor denies the allegations set out in paragraph eight and further states it possesses insufficient knowledge to form a belief as to the allegations. Respondent admits that at some points along the path of the leak certain amounts of vegetation were covered with crude oil.

9. Respondent neither admits nor denies the allegations set out in paragraph nine and further states it possesses insufficient knowledge to form a belief as to the allegations.

10. Respondent neither admits nor denies the allegations set out in paragraph ten and further states it possesses insufficient knowledge to form a belief as to the allegations.

11. Respondent neither admits nor denies the allegations set out in paragraph 11 and further states it possesses insufficient knowledge to form a belief as to the allegations.

12. Respondent admits that Section 3.550 of the Act is set out at paragraph 12.

13. Respondent admits that Section 3.545 of the Act is set out at paragraph 13.

14. Respondent admits that a portion of Section 12 of the Illinois Environmental protection Act ("Act") is set out at paragraph 14.

15. Respondent admits that Section 302.203 of the Illinois Pollution Control Board's ("Board") water pollution regulations is set out at paragraph 15.

16. Respondent admits that Section 302.208(g) of the Board's water pollution regulations references a general use quality standard for chloride.

17. Respondent denies the allegations set out in paragraph 17 as it calls for a legal conclusion.

18. Respondent denies the allegations set out in paragraph 18 as it calls for a legal conclusion.

19. Respondent denies the allegations set out in paragraph 19 as it calls for a legal conclusion.

20. Respondent denies the allegations set out in paragraph 20 as it calls for a legal conclusion.

21. Respondent denies the allegations set out in paragraph 21 as it calls for a legal conclusion.

WHEREFORE Respondent, Barger Engineering, Inc. respectfully requests that this Board deny all forms of Relief prayed for by the Complainant in Count I of its Amended Complaint.

COUNT II
(Water Pollution Violations (May 18, 2006))

1- 10. Respondent restates and incorporates herein by reference its Answers for paragraphs 1 through 5 and 12 through 16 of Count I for its Answer to paragraphs 1 through 10 of this Count II.

11. Respondent admits that Section 12(d) of the Illinois Environmental protection Act ("Act") is set out at paragraph 11.

12. Respondent admits that on May 18, 2006 a leak occurred from a fiberglass line at the identified facility and that approximately 200 barrels of salt water were released. Respondent neither admits nor denies that the subject line "breached" as that term is vague and ambiguous.

13. Respondent neither admits nor denies that the subject release occurred at the same facility as the September 23, 2005 release as the term "facility" is vague and ambiguous. Respondent admits that the two releases were located in close proximity to each other but did not originate from the same location.

14. Respondent admits that the saltwater from the May 19, 2006 leak traveled approximately 1 ½ miles from the leak site. Respondent denies the remaining allegations in paragraph seven.

15. Respondent neither admits nor denies the allegations set out in paragraph 15 and further states it possesses insufficient knowledge to form a belief as to the allegations.

15. Respondent neither admits nor denies the allegations set out in paragraph 15 and further states it possesses insufficient knowledge to form a belief as to the allegations.

16. Respondent neither admits nor denies the allegations set out in paragraph 16 and further states it possesses insufficient knowledge to form a belief as to the allegations.

17. Respondent neither admits nor denies the allegations set out in paragraph 17 and further states it possesses insufficient knowledge to form a belief as to the allegations.

18. Respondent denies the allegations set out in paragraph 18 as it calls for a legal conclusion.

19. Respondent denies the allegations set out in paragraph 19 as it calls for a legal conclusion.

20. Respondent denies the allegations set out in paragraph 20 as it calls for a legal conclusion.

21. Respondent denies the allegations set out in paragraph 21 as it calls for a legal conclusion.

22. Respondent denies the allegations set out in paragraph 22 as it calls for a legal conclusion.

23. Respondent denies the allegations set out in paragraph 23 as it calls for a legal conclusion.

WHEREFORE Respondent, Barger Engineering, Inc. respectfully requests that this Board deny all forms of Relief prayed for by the Complainant in Count II of its Amended Complaint.

COUNT III
(Water Pollution Violations (April 20, 2007))

1- 11. Respondent restates and incorporates herein by reference its Answers for paragraphs 1 through 5 and 12 through 16 of Count I for its Answer to paragraphs 1 through 10 of this Count III as well as its Answer for paragraph 11 of Count II as its Answer to paragraph 11 of this Count III.

12. Respondent admits that on April 20, 2007 a leak occurred from a steel flowline at the identified facility and that approximately 200 barrels of salt water were released. Respondent denies that 10 barrels of crude oil was leaked but that it believes approximately six barrels of crude oil were released.

13. Respondent admits that salt water eventually made its way to an unnamed creek. Respondent denies that it traveled 800 feet but affirmatively states the distance was approximately 1500 feet or that it traveled through "drain tiles."

14. Respondent denies the allegations set out in paragraph 14 as it calls for a legal conclusion.

15. Respondent neither admits nor denies the allegations set out in paragraph 15 and further states it possesses insufficient knowledge to form a belief as to the allegations.

16. Respondent denies the allegations set out in paragraph 16 as it calls for a legal conclusion.

17. Respondent denies the allegations set out in paragraph 17 as it calls for a legal conclusion.

18. Respondent denies the allegations set out in paragraph 18 as it calls for a legal conclusion.

19. Respondent denies the allegations set out in paragraph 19 as it calls for a legal conclusion.

WHEREFORE Respondent, Barger Engineering, Inc. respectfully requests that this Board deny all forms of Relief prayed for by the Complainant in Count III of its Amended Complaint.

COUNT IV
(Water Pollution Violations (August 2, 2007))

1- 11. Respondent restates and incorporates herein by reference its Answers for paragraphs 1 through 5 and 12 through 16 of Count I for its Answer to paragraphs 1 through 10 of this Count IV as well as its Answer for paragraph 11 of Count II as its Answer to paragraph 11 of this Count IV.

12. Respondent admits that on August 2, 2007 a leak occurred from a PVC line at the identified facility and that approximately 2 barrels of crude oil and 40 barrels of salt water were released. Respondent denies the remaining allegations set out in paragraph 12.

13. Respondent neither admits nor denies that the subject release entered a "creek" as the term "creek" is vague and ambiguous. Respondent admits that the salt water entered into a ditch.

14. Respondent denies the allegations set out in paragraph 14 as it calls for a legal conclusion.

15. Respondent neither admits nor denies the allegations set out in paragraph 15 and further states it possesses insufficient knowledge to form a belief as to the allegations.

16. Respondent denies the allegations set out in paragraph 16 as it calls for a legal conclusion.

17. Respondent denies the allegations set out in paragraph 17 as it calls for a legal conclusion.

18. Respondent denies the allegations set out in paragraph 18 as it calls for a legal conclusion.

19. Respondent denies the allegations set out in paragraph 19 as it calls for a legal conclusion.

WHEREFORE Respondent, Barger Engineering, Inc. respectfully requests that this Board deny all forms of Relief prayed for by the Complainant in Count III of its Amended Complaint.

Respectfully submitted

BARGER ENGINEERING, INC., Respondent

By: _____

One of Its Attorneys 

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PROOF OF SERVICE

The undersigned hereby certifies that the foregoing document was served by electronic mail to:

Ms. Dorothy Gunn, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, IL 60601

and a copy to the following:

Ms. Carol Webb
Hearing Office
Illinois Pollution Control Board
1021 North Grand Ave. East
Post Office Box 19276
Springfield, IL 62794-9274

Ms. Kristin Gale
Assistant Attorney General
Environmental Bureau
500 S. 2nd St.
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by depositing same in the United States mail in Springfield, Illinois, on the 14th day of January, 2008, with postage fully prepaid.

