

ORIGINAL



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CLERK'S OFFICE

MAR 13 2008

STATE OF ILLINOIS  
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

**Lisa Madigan**  
ATTORNEY GENERAL

March 11, 2008

PCB08-52

John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board  
James R. Thompson Center, Ste. 11-500  
100 West Randolph  
Chicago, Illinois 60601

Re: ***People v. Dr. Charles R. Boyce***

Dear Clerk:

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,

A handwritten signature in black ink, appearing to read "J. L. Homan", is written over a horizontal line.

J. L. Homan  
Environmental Bureau  
500 South Second Street  
Springfield, Illinois 62706  
(217) 782-9031

JLH/pk  
Enclosures

ORIGINAL

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF )  
 ILLINOIS, )  
 )  
 Complainant, )  
 )  
 vs. )  
 )  
 DR. CHARLES R. BOYCE, d/b/a )  
 CHATHAM VETERINARY CLINIC, )  
 )  
 Respondent. )

PCB No. 08-52  
(Enforcement)

RECEIVED  
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 MAR 13 2008  
 STATE OF ILLINOIS  
 Pollution Control Board

NOTICE OF FILING

To: Dr. Charles R. Boyce  
 d/b/a Chatham Veterinary Clinic  
 1500 North Main Street  
 Chatham, IL 62629

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 (2006), 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: 

J. L. Hdman  
Assistant Attorney General  
Environmental Bureau

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: March 11, 2008

03/13/08

**RECEIVED**  
CLERK'S OFFICE

MAR 13 2008

STATE OF ILLINOIS  
Pollution Control Board

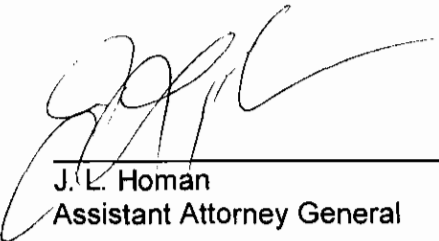
**CERTIFICATE OF SERVICE**

I hereby certify that I did on March 11, 2008, 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: Dr. Charles R. Boyce  
d/b/a Chatham Veterinary Clinic  
1500 North Main Street  
Chatham, IL 62629

and the original and ten copies by First Class Mail with postage thereon fully prepaid of the same foregoing instrument(s):

To: John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
Suite 11-500  
100 West Randolph  
Chicago, Illinois 60601



\_\_\_\_\_  
J. L. Homan  
Assistant Attorney General

This filing is submitted on recycled paper.

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MAR 13 2008

STATE OF ILLINOIS  
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, )  
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 Complainant, )  
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 CHATHAM VETERINARY CLINIC, )  
 )  
 Respondent. )

PCB No. 08-52  
(Enforcement)

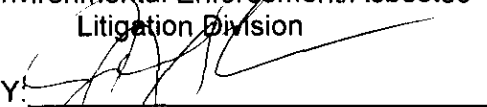
ENTRY OF APPEARANCE

On behalf of the Complainant, PEOPLE OF THE STATE OF ILLINOIS, J. L. HOMAN, 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:   
\_\_\_\_\_  
J. L. Homan  
Environmental Bureau  
Assistant Attorney General

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: March 11, 2008

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**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF )  
ILLINOIS, )  
 )  
Complainant, )  
 )  
vs. )  
 )  
DR. CHARLES R. BOYCE, d/b/a )  
CHATHAM VETERINARY CLINIC, )  
 )  
Respondent. )

No. 08-52

**COMPLAINT**

The PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and on behalf of the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, complains of the Respondent, Dr. CHARLES BOYCE, d/b/a CHATHAM VETERINARY CLINIC, ("Boyce") as follows:

**COUNT I**

**OPEN DUMPING VIOLATIONS**

1. This Complaint is brought on behalf of the People of the State of Illinois, by Lisa Madigan, 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 Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2006).

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 (2006), and charged, *inter alia*, with the duty of enforcing the Act.

3. At all times relevant to this Complaint, the Respondent Dr. Charles R. Boyce, d/b/a Chatham Veterinary Clinic (“Respondent” or “Boyce”) is the owner and operator of a facility located at 1500 North Main Street (the clinic) and 1300 North Main Street (the garage and open lot), Chatham, Sangamon County, Illinois (collectively, the “site”). Patricia Smith Boyce, wife of Dr. Charles Boyce, is the owner of the site.

4. At all times relevant to this complaint, the Respondent has conducted various operations at these sites. The Respondent calls his business at the site a veterinary clinic.

5. Section 21 of the Act, 415 ILCS 5/21(2006), provides in pertinent part as follows:

No person shall:

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

\* \* \*

(d) Conduct any waste-storage, waste treatment, or waste-disposal operation:

\* \* \*

(2) in violation of any regulations or standards adopted by the Board under this Act;...

\* \* \*

(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.

\* \* \*

(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 at the dump site:

(1) litter;

\* \* \*

(3) open burning;

6. Section 3.185 of the Act, 415 ILCS 5/3.185 (2006), 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.

7. Section 3.230 of the Act, 415 ILCS 5/3.230 (2006), provides in pertinent

part:

“Household waste” means any solid waste (including garbage, trash, and sanitary waste in septic tanks) derived from households ....

8. Section 3.305 of the Act, 415 ILCS 5/3.305 (2006), provides:

“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 3.385 of the Act, 415 ILCS 5/3.385 (2006), provides:

“Refuse” means waste.

10. Section 3.445 of the Act, 415 ILCS 5/3.445 (2006), provides:

“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.

11. Section 3.470 of the Act, 415 ILCS 5/3.470 (2006), provides:

"Solid waste" means waste.

12. Section 3.480 of the Act, 415 ILCS 5/3.480 (2006), provides:

"Storage" means the containment of waste, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal.

13. Section 3.535 of the Act, 415 ILCS 5/3.535 (2006), provides in pertinent

part as follows:

"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, and from community activities....

14. Section 3.540 of the Act, 415 ILCS 5/3.540 (2006), provides:

"Waste disposal site" is a site on which solid waste is disposed.

15. On June 15, 2006, the Illinois EPA inspected the 1300 and 1500 North Main Street sites. Upon arrival at the clinic, the inspector observed used sharps in two cardboard boxes. Mrs. Boyce informed the inspector that the clinic had not retained a service to remove and dispose of its potentially infectious medical wastes. East of the clinic in a hay field the inspectors observed landscape waste and wood boxes piled in an area of recent open burning. Scalpel blades, intravenous needles and vials were found among the ashes. In the garage located at 1300 North Main Street, the inspectors observed unused medicines and sharps alongside various miscellaneous equipment. East of the garage the inspectors observed another open burning area with needles and glass vials among the ashes.

16. A subsequent review of records at the Illinois EPA revealed no permit for either site.

17. Scalpel blades, intravenous needles, vials, sharps, along with other general refuse are "refuse" and "waste" as those terms are defined under Section 5/3.385 and 5/3.535 of the Act, 415 ILCS 5/3.385 and 3.535(2006).

18. Since June 15, 2006, and continuing through approximately October, 2007, the Respondent has caused or allowed the open dumping of refuse and waste at the sites. By causing or allowing the open dumping of refuse and waste, the Respondent has violated Section 21(a) of the Act, 415 ILCS 5/21(a)(2006).

19. Since June 15, 2006, and continuing through approximately October, 2007, the Respondent has caused or allowed the open dumping of waste in a manner that has resulted in the accumulation of litter at the site. By causing or allowing the open dumping of waste in a manner which has resulted in litter, the Respondent has violated Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1)(2006).

### **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) for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000) 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 BURNING**

1. Complainant realleges and incorporates herein by reference paragraphs 1-17 of the above Count I as paragraphs 1-17 of this Count II.

18. Section 9 of the Act, 415 ILCS 5/9 (2006), provides, in pertinent part, as follows:

No person shall:

(a) Cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act.

\* \* \*

(c) Cause or allow the open burning of refuse, conduct any salvage operation by open burning, or cause or allow the burning of any refuse in any chamber not specifically designed for the purpose and approved by the Agency pursuant to regulations adopted by the Board under this Act; except that the Board may adopt regulations permitting open burning of refuse in certain cases upon a finding that no harm will result from such burning, or that any *alternative method* of disposing of such refuse would create a

safety hazard so extreme as to justify the pollution that would result from such burning.

\* \* \*

19. Section 3.115 of the Act, 415 ILCS 5/3.115 (2006), provides that:

"Air pollution" is the presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property.

20. Section 3.300 of the Act, 415 ILCS 5/3.300 (2006), provides that "[o]pen burning' is the combustion of any matter in the open or in an open dump."

21. Since on or before June 15, 2006, and continuing until approximately October, 2007, the Respondent has caused, threatened or allowed emission of contaminants into the environment so as to cause or tend to cause air pollution in Illinois or so as to violate regulations or standards adopted by the Board under this Act, in that the Respondent has caused or allowed the combustion of wastes, potentially infectious medical wastes, and other refuse at the site.

22. By causing, threatening or allowing the emission of contaminants into the environment so as to cause or tend to cause air pollution in Illinois or so as to violate regulations or standards adopted by the Board, the Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2006).

23. Since June 15, 2006, and continuing through approximately October, 2007, the Respondent has caused or allowed the open dumping of wastes on site in a manner resulting in open burning. By causing or allowing the open dumping of wastes

and refuse in a manner that has resulted in open burning, the Respondent has violated Section 21(p)(3) of the Act, 415 ILCS 5/21(p)(3)(2006).

24. Since June 15, 2006, and continuing through approximately October, 2007, the Respondent has caused or allowed the open burning of refuse at the sites. By causing or allowing the open burning of refuse, the Respondent has violated Section 9(c) of the Act, 415 ILCS 5/9(c)(2006).

**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) for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000) 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 III**

**POTENTIALLY INFECTIOUS MEDICAL WASTES VIOLATIONS**

1. Complainant realleges and incorporates herein by reference paragraphs 1-17 of the above Count I as paragraphs 1-17 of this Count III.

18. Section 3.360 of the Act, 415 ILCS 5/3.360 (2006) provides in pertinent part as follows:

(a) "Potentially infectious medical waste" means the following types of waste generated in connection with the diagnosis, treatment (i.e., provision of medical services), or immunization of human beings or animals; research pertaining to the provision of medical services; or the production or testing of biologicals:

(1) Cultures and stocks. This waste shall include but not be limited to cultures and stocks of agents infectious to humans, and associated biologicals; cultures from medical or pathological laboratories; cultures and stocks of infectious agents from research and industrial laboratories; wastes from the production of biologicals; discarded live or attenuated vaccines; or culture dishes and devices used to transfer, inoculate, or mix cultures

\* \* \*

(4) Used sharps. This waste shall include but not be limited to discarded sharps used in animal or human patient care, medical research, or clinical or pharmaceutical laboratories; hypodermic, intravenous, or other medical needles; hypodermic or intravenous syringes; Pasteur pipettes; scalpel blades; or blood vials. This waste shall also include but not be limited to other types of broken or unbroken glass (including slides and cover slips) in contact with infectious agents.

\* \* \*

(7) Unused sharps. This waste shall include but not be limited to the following unused, discarded sharps: hypodermic, intravenous, or other needles; hypodermic or intravenous syringes; or scalpel blades.

\* \* \*

19. Section 56.1 of the Act, 415 ILCS 5/56.1 (2006), provides, in pertinent part:

(A) No person shall:

(a) Cause or allow the disposal of any potentially infectious medical waste. Sharps may be disposed in any landfill permitted by the Agency under Section 21 of this Act to accept municipal waste for disposal, if both:

- (1) the infectious potential has been eliminated from the sharps by treatment; and
- (2) the sharps are packaged in accordance with Board regulations

\* \* \*

(c) Beginning July 1, 1992, cause or allow the delivery of any potentially infectious medical waste to a person or facility for storage, treatment, or transfer that does not have a permit issued by the agency to receive potentially infectious medical waste, unless no permit is required under subsection (g)(1).

\* \* \*

(g) Beginning July 1, 1992, conduct any potentially infectious medical waste treatment, storage, or transfer operation:  
(1) without a permit issued by the Agency that specifically authorizes the treatment, storage, or transfer of potentially infectious medical waste. No permit is required under this subsection (g) or subsection (d)(1) of Section 21 for any:

(A) Person conducting a potentially infectious medical waste treatment, storage, or transfer operation for potentially infectious medical waste generated by the person's own activities that are treated, stored, or transferred within the site where the potentially infectious medical waste is generated.

- (B) Hospital that treats, stores, or transfers only potentially infectious medical waste generated by its own activities or by members of its medical staff.
- (c) Sharps collection station that is operated in accordance with Section 56.7.

20. Section 1420.104 of the Board's Biological Materials Regulations, 35 Ill. Adm. Code 1420.104, incorporates the statutory prohibitions of Section 56.1 of the Act, 415 ILCS 5/56.1 (2006).

21. Section 1420.105 of the Board's Biological Materials Regulations, 35 Ill. Adm. Code 1420.105, states in pertinent part as follows:

- (c) A person who conducts a PIMW treatment, storage, or transfer operation is required to obtain a permit from the Agency, except:
  - 1) Any person conducting a PIMW treatment, storage, or transfer operation for PIMW generated by the person's own activities that are treated, stored, or transferred within the site where the PIMW is generated;....

22. Section 1421.111 of the Board's Biological Materials Regulations, 35 Ill. Adm. Code 1421.111, provides in pertinent part as follows:

- a) Generators shall segregate PIMW as follows:
  - 1) Sharps,
  - 2) Oversized PIMW, and
  - 3) All other.
- b) PIMW mixed with other waste is regulated under this Subtitle as PIMW and the mixture is not exempt from any other applicable regulations.

23. Section 1421.121 of the Board's Biological Materials Regulations, 35 Ill. Adm. Code 1421.121, provides in pertinent part as follows:



- a) PIMW, except for oversized PIMW, must be placed in a container, or a combination of containers. Such container must be:
  - 1) Rigid;
  - 2) Leak-resistant;
  - 3) Impervious to moisture;
  - 4) Of a strength sufficient to prevent tearing or bursting under normal conditions of use or handling; and
  - 5) Sealed to prevent leakage during transit.
- \* \* \*
- b) Sharps, unless rendered unrecognizable pursuant to 35 Ill. Adm. Code 1422.126(a), must be packaged in a container, or a combination of containers, that is puncture-resistant and meets the requirements of subsection (a) of this Section.
- \* \* \*

24. Section 1421.131 of the Board's Biological Materials Regulations, 35

Ill. Adm. Code 1421.131 provides in pertinent part as follows:

- a) The exterior of the outer package must be marked as follows prior to shipment:
  - 1) The generator shall:
    - A) Mark on two opposite sides of the outer package in lettering that is readable at a minimum distance of five (5) feet:
      - i) The International Biohazard Symbol as shown in Illustration A of this Part and the word "Biohazard"; and
      - ii) The word "sharps", if the package contains sharps.
    - B) Mark with indelible ink in lettering that is legible on a water-resistant label or tag securely attached to or marked on the outer package:

- i) The generator's name,
  - ii) The generator's address, and
  - iii) The generator's phone number (a 24-hour phone number, if available).
- 2) The transporter shall mark with indelible ink in lettering that is legible on a water-resistant label or tag securely attached to or marked on the outer package:
  - A) The transporter's name,
  - B) The transporter's permit number,
  - C) The transporter's address,
  - D) The transporter's phone number (a 24-hour phone number, if available), and
  - E) For each PIMW package, the shipment date when PIMW initially left the generator's site; or for each shipment, a unique identification number which directly corresponds to the initial date of shipment.

25. During the June 15, 2006, inspection, used sharps were observed in cardboard boxes, and a representative of the Respondent informed the inspectors that the clinic had not retained a service to remove and dispose of PIMW, nor did the Respondent demonstrate the capacity to properly store, transport and dispose of PIMW himself. Scalpel blades, intravenous needles and vials were observed among the ashes from a previous burning in the adjacent field. The garage at 1300 North Main Street contained unused medicines, sharps and miscellaneous equipment. East of that garage was another open burning area where needles and glass vials were observed in the ashes.

26. Since on or before June 15, 2006, and continuing until approximately October, 2007, the Respondent caused or allowed the storage and disposal of PIMW, including used sharps, vials, scalpels, and other miscellaneous PIMW at both the 1300 and 1500 North Main Street locations. This PIMW was stored and/or disposed of in containers that were not properly marked, leakproof, rigid, and impervious to moisture.

27. By causing or allowing the open dumping, storage and disposal of PIMW, including used sharps, vials, scalpels and other miscellaneous PIMW, by failing to segregate, contain, and label the PIMW, the Respondent violated Section 56.1 of the Act, 415 ILCS 5/56.1(2006), and Sections 1420.104, 1421.111, 1421.121 and 1421.131 of the Board's Biological Materials Regulations, 35 Ill. Adm. Code 1420.104, 1421.111 1421.121 and 1421.131.

28. Subsequent review of Illinois EPA records revealed that the Respondents did not have a permit to operate a PIMW treatment, storage, or transfer operation at the sites.

29. Since on or before June 15, 2006, and continuing until approximately October, 2007, the Respondent conducted a PIMW treatment, storage or transfer operation without a permit from the Agency.

30. By conducting a PIMW treatment, storage, or transfer operation without a permit from the Agency, the Respondents have violated Section 1420.105 of the Board's Biological Materials Regulations, 35 Il.Adm. Code 1420.105.

**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) for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000) 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, Chief  
Assistant Attorney General  
Environmental Bureau

J. L. HOMAN  
Assistant Attorney General  
500 South Second Street  
Springfield, Illinois 62706  
217/782-9031

Dated 3/10/05