

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB NO.
)	(Enforcement –Water/Air)
)	
PERFECT MULCH PRODUCTS, INC.,)	
an Illinois corporation,)	
)	
Respondent.)	

NOTICE OF ELECTRONIC FILING

PLEASE TAKE NOTICE that today, August 31, 2015, I have electronically filed with the Clerk of the Illinois Pollution Control Board the following Complaint, a true and correct copy of which is hereto attached and hereby served upon you.

Pursuant to 35 Ill. Adm. Code 103.204(f), I am required to state that your failure to file an answer to this Complaint within 60 (sixty) days may have severe consequences. Failure to answer will mean that all allegations in the 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.

NOTIFICATION

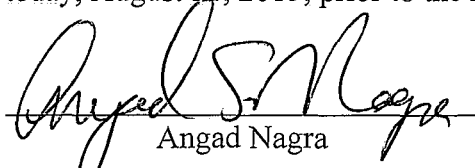
YOU ARE HEREBY NOTIFIED that financing may be available through the Illinois Environmental Facilities Financing Act (20ILCS 3515/1 *et seq.*) to correct the alleged pollution.

PEOPLE OF THE STATE OF ILLINOIS,
ex. rel. LISA MADIGAN, Attorney General
of the State of Illinois

By: 
 Angad Nagra
 Assistant Attorney General
 Environmental Bureau
 69 W. Washington Street, 18th Floor
 Chicago, IL 60602
 (312) 814-5361

CERTIFICATE OF SERVICE

I, Angad Nagra, Assistant Attorney General, do hereby certify that I mailed a copy of the attached Notice of Electronic Filing and the Complaint filed in the above referenced case on the Respondent, Perfect Mulch Products, Inc., c/o William A. Sykora (Registered Agent), 1 S 376 Summit Avenue Court, Unit C, Oakbrook Terrace, IL 60181, by certified mail with return receipt requested, today, August 31, 2015, prior to the hour of 5:00 p.m.


Angad Nagra

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
by LISA MADIGAN, Attorney)	
General of the State of Illinois,)	
)	
Complainant,)	
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v.)	PCB
)	(Enforcement –Water/Air)
PERFECT MULCH PRODUCTS, INC.,)	
an Illinois corporation,)	
)	
Respondent.)	

COMPLAINT

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

COUNT I
AIR POLLUTION

1. This Complaint is brought on behalf of the People of the State of Illinois by LISA MADIGAN, Attorney General of the State of Illinois (“Complainant”), on her own motion and at the request of the Illinois Environmental Protection Agency (“Illinois EPA”), pursuant to the provisions of Section 31 of the Environmental Protection Act (“Act”), 415 ILCS 5/31 (2014).

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 (2014), and charged, *inter alia*, with the duty of enforcing the Act and regulations promulgated by the Illinois Pollution Control Board (“Board”).

3. Respondent PERFECT MULCH PRODCUTS, INC. (“Perfect Mulch”) is an Illinois corporation duly authorized to transact business in the State of Illinois.

4. At all times relevant to this Complaint, Perfect Mulch operated a mulching yard located at 5300 South Lawndale Avenue, McCook, Cook County, Illinois (“Facility”).

5. On December 27, 2013, and on such other dates better known to Perfect Mulch, a large pile of tree trunks, branches and wood chips and clippings (“landscape waste”) stored at the Facility caught fire from unknown causes, resulting in emissions of vapor clouds, haze, smoke, dust and foul odors. The pile of landscape waste smoldered until at least March 12, 2014.

6. On various dates between December 27, 2013 and March 12, 2014, and on such other dates better known to Perfect Mulch, emissions of vapor clouds, haze, smoke, dust and foul odors from the burning landscape waste at the Facility caused individuals in surrounding areas to experience (a) headaches; (b) difficulty sleeping at night; and (c) difficulty performing their daytime jobs. The odors emitted from the Facility during this time were so strong that numerous residents in surrounding areas complained to the Illinois EPA that the stench of smoke and burning wood had pervaded their neighborhoods, homes, automobiles and clothes.

7. Section 9(a) of the Act, 415 ILCS 5/9(a) (2014), provides 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;

8. Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141, provides as follows:

No person shall cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as, either alone or in combination with contaminants from other sources, to cause or tend to cause air pollution in Illinois, or so as to violate the provisions of this Chapter, or so as to prevent the

attainment or maintenance of any applicable ambient air quality standard.

9. Section 3.315 of the Act, 415 ILCS 5/3.315 (2014), provides as follows:

“Person” is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

10. Perfect Mulch, a corporation, is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2014).

11. Section 3.165 of the Act, 415 ILCS 5/3.165 (2014), provides as follows:

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

12. The vapor clouds, haze, smoke, dust and foul odors emitted from the burning landscape waste at the Facility constituted “contaminants” as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2014).

13. Section 3.115 of the Act, 415 ILCS 5/3.115 (2014), provides as follows:

“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.

14. The vapor clouds, haze, smoke and dust emitted from the burning landscape waste at the Facility threatened injury to human life, health and property.

15. The foul odors emitted from the burning landscape waste at the Facility unreasonably interfered with neighboring residents’ enjoyment of life and property.

16. The vapor clouds, haze, smoke, dust and foul odors emitted from the burning landscape waste at the Facility thus constituted "air pollution" as that term is defined in Section 3.115 of the Act, 415 ILCS 5/3.115 (2014).

17. By causing and allowing the combustion of landscape waste at the Facility from at least December 27, 2013 through at least March 12, 2014, Perfect Mulch caused, threatened or allowed air pollution, and thereby violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2014), and 35 Ill. Adm. Code 201.141.

WHEREFORE, Complainant PEOPLE OF THE STATE OF ILLINOIS respectfully requests that the Board enter an order against Respondent PERFECT MULCH PRODUCTS, INC., on Count I:

1. Authorizing a hearing in this matter at which time Perfect Mulch will be required to answer the allegations herein;

2. Finding that Perfect Mulch has violated Section 9(a) of the Act and 35 Ill. Adm. Code 201.141;

3. Ordering Perfect Mulch to cease and desist from future violations of Section 9(a) of the Act and 35 Ill. Adm. Code 201.141;

4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against Perfect Mulch for each violation of Section 9(a) of the Act and 35 Ill. Adm. Code 201.141 and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day the violations continued;

5. Ordering Perfect Mulch to pay all costs, pursuant to Section 42(f) of the Act, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board deems appropriate and just.

COUNT II
OPEN BURNING OF REFUSE

1-5. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 5 of Count I as paragraphs 1 through 5 of this Count II.

6. Section 9(c) of the Act, 415 ILCS 5/9(c) (2014), provides as follows:

No person shall:

* * *

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.

7. Section 3.300 of the Act, 415 ILCS 5/3.300 (2014), provides as follows:

“Open burning” is the combustion of any matter in the open or in an open dump”

8. Section 3.385 of the Act, 415 ILCS 5/3.385 (2014), provides as follows:

“Refuse” means waste.

9. Section 3.535 of the Act, 415 ILCS 5/3.535 (2014), provides, in pertinent part, as follows:

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

10. Pursuant to authority granted under Section 9 of the Act, the Board has promulgated regulations governing the open burning of materials in the State of Illinois, codified at 35 Ill. Adm. Code Part 237 (“Board Open Burning Regulations”).

11. Section 237.102 of the Board Open Burning Regulations, 35 Ill. Adm. Code 237.102, provides, in pertinent part, as follows:

- a) No person shall cause or allow open burning, except as provided in this Part.

12. Section 237.101 of the Board Open Burning Regulations, 35 Ill. Adm. Code 237.101, provides, in pertinent part, as follows:

“Landscape Waste”: Any vegetable or plant refuse, except garbage and agricultural waste. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery and yard trimmings.

“Open Burning”: The combustion of any matter in such a way that the products of the combustion are emitted to the open air without originating or passing through equipment for which a permit could be issued under Section 9(b) of the Act.

13. The landscape waste at Perfect Mulch’s Facility that ignited on December 27, 2013 constituted “discarded material” and thus constituted “waste” as that term is defined by Section 3.535 of the Act, 415 ILCS 5/3.535 (2014). As waste, the material also constituted “refuse”, as that term is defined by Section 3.385 of the Act, 415 ILCS 5/3.385 (2014).

14. The landscape waste at Perfect Mulch’s Facility that ignited on December 27, 2013 constituted “landscape waste” as that term is defined in Section 237.101 of the Board Open Burning Regulations, 35 Ill. Adm. Code 237.101.

15. The resulting emissions of vapor clouds, haze, smoke, dust and foul odors did not originate or pass through equipment for which a permit could be issued under the Act. The

combustion of landscape waste at the Facility thus constituted "open burning" as that term is defined in Section 237.101 of the Board Open Burning Regulations, 35 Ill. Adm. Code 237.101.

16. From at least December 27, 2013 through at least March 12, 2014, Perfect Mulch thus engaged in the open burning of waste at the Site and thereby violated Section 9(c) of the Act, 415 ILCS 5/9(c) (2014).

WHEREFORE, Complainant PEOPLE OF THE STATE OF ILLINOIS respectfully requests that the Board enter an order against Respondent PERFECT MULCH PRODUCTS, INC., on Count II:

1. Authorizing a hearing in this matter at which time Perfect Mulch will be required to answer the allegations herein;

2. Finding that Perfect Mulch has violated Section 9(c) of the Act, 415 ILCS 5/9(c) (2014);

3. Ordering Perfect Mulch to cease and desist from further violations of Section 9(c) of the Act, 415 ILCS 5/9(c) (2014);

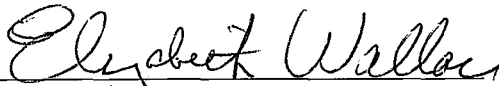
4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against Perfect Mulch for each violation of Section 9(c) of the Act, 415 ILCS 5/9(c) (2014); and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day the violation continued;

5. Ordering Perfect Mulch to pay all costs, pursuant to Section 42(f) of the Act, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board deems appropriate and just.

PEOPLE OF THE STATE OF ILLINOIS,
by LISA MADIGAN, Attorney General
of the State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

By: 
ELIZABETH WALLACE, Chief
Environmental Bureau
Assistant Attorney General

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