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JAN 22 2007  
STATE OF ILLINOIS  
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

Lisa Madigan  
ATTORNEY GENERAL

January 18, 2007

PCB07-68

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

Re: ***People v. Chippewa Loft, LLC***

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,

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

JB/pp  
Enclosures

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JAN 22 2007

STATE OF ILLINOIS  
Pollution Control Board

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF	)
ILLINOIS,	)
	)
Complainant,	)
	)
vs.	)
	)
CHIPPEWA LOFT, LLC,	)
a Missouri corporation,	)
	)
Respondent.	)

07-68  
PCB No.  
(Enforcement - Air)

**NOTICE OF FILING**

To: Chippewa Loft, LLC  
c/o Gurprett S. Padda, R.A.  
10402 Cable Place  
St. Louis, MO 63109

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.

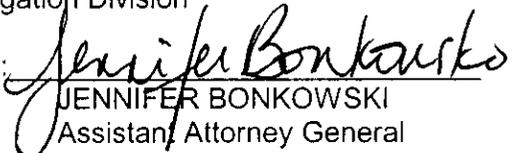
Respectfully submitted,

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:

  
JENNIFER BONKOWSKI  
Assistant Attorney General  
Environmental Bureau

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: January 18, 2006

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STATE OF ILLINOIS  
Pollution Control Board

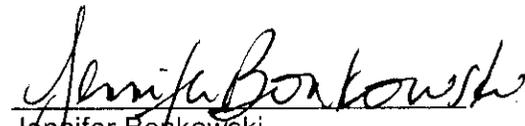
**CERTIFICATE OF SERVICE**

I hereby certify that I did on January 18, 2007, 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: Chippewa Loft, LLC  
c/o Gurprett S. Padda, R.A.  
10402 Cable Place  
St. Louis, MO 63109

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

  
Jennifer Bonkowski  
Assistant Attorney General

This filing is submitted on recycled paper.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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Pollution Control Board

PEOPLE OF THE STATE OF )  
ILLINOIS, )  
 )  
 Complainant, )  
 )  
 vs. )  
 )  
 CHIPPEWA LOFT, LLC, )  
 a Missouri corporation, )  
 )  
 Respondent. )

PCB No. 68  
(Enforcement - Air)

ENTRY OF APPEARANCE

On behalf of the Complainant, PEOPLE OF THE STATE OF ILLINOIS, JENNIFER BONKOWSKI, 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: Jennifer Bonkowski  
JENNIFER BONKOWSKI  
Environmental Bureau  
Assistant Attorney General

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: January 18, 2007

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JAN 22 2007

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

STATE OF ILLINOIS  
Pollution Control Board

PEOPLE OF THE STATE OF )  
 ILLINOIS, )  
 )  
 Complainant, )  
 )  
 vs. )  
 )  
 CHIPPEWA LOFT, LLC, a Missouri )  
 corporation, )  
 )  
 Respondent. )

PCB No. 07- **68**  
(Enforcement-Air)

**COMPLAINT**

The PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, complains of the Respondent, CHIPPEWA LOFT, LLC, as follows:

**COUNT I**

**VIOLATIONS OF THE NATIONAL EMISSIONS STANDARDS FOR ASBESTOS**

1. This count 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 the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2004).

2. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2004), and charged, *inter alia*, with the duty of investigating and enforcing violations of the Act.

3. CHIPPEWA LOFT, LLC. ("Chippewa"), is a Missouri corporation that has not

filed a certificate of authority to transact business in Illinois in good standing. The registered agent for Chippewa is Gurprett S. Pradda, 10402 Cable Place, St. Louis, Missouri 63131.

4. Chippewa is the owner of property located at 113 East Clay Street, Collinsville, Madison County, Illinois, which contains a building formerly known as the Collinsville Herald Building.

5. On a date prior to March 9, 2005, and better known to the Respondent, Chippewa commenced renovation activities within the Collinsville Herald Building, including the removal of approximately 3,700 square feet of asbestos-containing floor tile.

6. As of March 9, 2005, Chippewa had not filed a written notification of its renovation project with the Illinois EPA.

7. Section 9.1(d) of the Act, 415 ILCS 5/9.1(d)(2004) provides as follows:

(d) No person shall:

(1) violate any provisions of Sections 111, 112, 165 or 173 of the Clean Air Act, as now or hereafter amended, or federal regulations adopted pursuant thereto;

8. The regulations on National Emission Standards for Hazardous Air Pollutants (“NESHAP”) for asbestos, 40 CFR Part 61, Subpart M, were adopted pursuant to Section 112 of the Clean Air Act, 42 USC §7412. Asbestos is regulated as a hazardous air pollutant because it is a carcinogen. Regulated ACM contains more than one percent asbestos and is generally “friable,” which means such materials, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure.

9. 40 CFR §61.141 provides the following pertinent definitions:

Adequately wet means sufficiently mix or penetrate with liquid to prevent the release of particulates. If visible emissions are observed coming from asbestos-containing material,

then that material has not been adequately wetted. However, the absence of visible emissions is not sufficient evidence of being adequately wet.

Category I nonfriable asbestos-containing material (ACM) means asbestos-containing packings, gaskets, resilient floor covering, and asphalt roofing products containing more than 1 percent asbestos as determined using the method specified in appendix E, subpart E, 40 CFR part 763, section 1, Polarized Light Microscopy.

Category II nonfriable ACM means any material, excluding Category I nonfriable ACM, containing more than 1 percent asbestos as determined using the methods specified in appendix E, subpart E, 40 CFR part 763, section 1, Polarized Light Microscopy that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.

Facility means any institutional, commercial, public, industrial, or residential structure, installation, or building. . . .

Friable asbestos material means any material containing more than 1 percent asbestos as determined using the method specified in appendix E, subpart E, 40 CFR part 763 section 1, Polarized Light Microscopy, that, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure. If the asbestos content is less than 10 percent as determined by a method other than point counting by polarized light microscopy (PLM), verify the asbestos content by point counting using PLM.

Grinding means to reduce to powder or small fragments and includes mechanical chipping or drilling.

In poor condition means the binding of the material is losing its integrity as indicated by peeling, cracking, or crumbling of the material.

Nonfriable asbestos-containing material means any material containing more than 1 percent asbestos as determined using the method specified in appendix E, subpart E, 40 CFR part 763, section 1, Polarized Light Microscopy, that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.

Owner or operator of a demolition or renovation activity means any person who owns, leases, operates, controls, or supervises the facility being demolished or renovated or any person who owns, leases, operates, controls, or supervises the demolition or renovation operation, or both.

Regulated asbestos-containing material (RACM) means (a) Friable asbestos material, (b) Category I nonfriable ACM that has become friable, (c) Category I nonfriable ACM that will be or has been subjected to sanding, grinding, cutting, or abrading, or (d) Category II nonfriable ACM that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the

course of demolition or renovation operations regulated by this subpart.

Remove means to take out RACM or facility components that contain or are covered with RACM from any facility.

Renovation means altering a facility or one or more facility components in any way, including the stripping or removal of RACM from a facility component. Operations in which load-supporting structural members are wrecked or taken out are demolitions.

Resilient floor covering means asbestos-containing floor tile, including asphalt and vinyl floor tile, and sheet vinyl floor covering containing more than 1 percent asbestos as determined using polarized light microscopy according to the method specified in appendix E, subpart E, 40 CFR part 763, Section 1, Polarized Light Microscopy.

10. 40 CFR §61.145 provides in pertinent part as follows:

Standard for demolition and renovation.

(a) *Applicability.* To determine which requirements of paragraphs (a), (b), and (c) of this section apply to the owner or operator of a demolition or renovation activity and prior to the commencement of the demolition or renovation, thoroughly inspect the affected facility or part of the facility where the demolition or renovation operation will occur for the presence of asbestos, including Category I and Category II nonfriable ACM. The requirements of paragraphs (b) and (c) of this section apply to each owner or operator of a demolition or renovation activity, including the removal of RACM as follows:

\* \* \*

(4) In a facility being renovated, including any individual nonscheduled renovation operation, all the requirements of paragraphs (b) and (c) of this section apply if the combined amount of RACM to be stripped, removed, dislodged, cut, drilled, or similarly disturbed is

(I) At least 80 linear meters (260 linear feet) on pipes or at least 15 square meters (160 square feet) on other facility components, or

\* \* \*

(b) Notification requirements. Each owner or operator of a demolition or renovation activity to which this section applies shall:

(1) Provide the Administrator with written notice of intention to demolish or renovate. . . .

(l) At least 10 working days before asbestos stripping or removal work or any other activity begins. . . .

\* \* \*

(c) *Procedures for asbestos emission control.* Each owner or operator of a demolition or renovation activity to whom this paragraph applies, according to paragraph (a) of this section, shall comply with the following procedures:

(1) Remove all RACM from a facility being demolished or renovated before any activity begins that would break up, dislodge, or similarly disturb the material or preclude access to the material for subsequent removal. RACM need not be removed before demolition if:

(l) It is Category I nonfriable ACM that is not in poor condition and is not friable.

\* \* \*

(iv) They are Category II nonfriable ACM and the probability is low that the materials will become crumbled, pulverized, or reduced to powder during demolition.

\* \* \*

(6) For all RACM, including material that has been removed or stripped:

(i) Adequately wet the material and ensure that it remains wet until collected and contained or treated in preparation for disposal in accordance with §61.150; and

(ii) Carefully lower the material to the ground and floor, not dropping, throwing, sliding, or otherwise damaging or disturbing the material.

\* \* \*

11. 40 CFR §61.150 provides in pertinent part as follows:

Standard for waste disposal for manufacturing, fabricating, demolition, renovation, and spraying operations.

Each owner or operator of any source covered under the provisions of §§61.144, 61.145, 61.146, and 61.147 shall comply with the following provisions:

(a) Discharge no visible emissions to the outside air during the collection, processing

(including incineration), packaging, or transporting of any asbestos-containing waste material generated by the source, or use one of the emission control and waste treatment methods specified in paragraphs (a) (1) through (4) of this section.

(1) Adequately wet asbestos-containing waste material. . . .

\* \* \*

(5) As applied to demolition and renovation, the requirements of paragraph (a) of this section do not apply to Category I nonfriable ACM waste and Category II nonfriable ACM waste that did not become crumbled, pulverized, or reduced to powder.

(b) All asbestos-containing waste material shall be deposited as soon as is practical by the waste generator at:

(1) A waste disposal site operated in accordance with the provisions of §61.154, or

\* \* \*

(3) The requirements of paragraph (b) of this section do not apply to Category I nonfriable ACM that is not RACM.

\* \* \*

12. The former Collinsville Herald Building is a “facility” and the Respondent is an “owner” and “operator” of a “renovation” as these terms are defined at 40 CFR 61.141.

13. The floor tile in Respondent’s facility was classified as “Category I nonfriable ACM,” that will be or has been subjected to sanding, grinding, cutting, or abrading, and therefore subject to the asbestos NESHAP work practices and other requirements as “regulated asbestos-containing material” (“RACM”), as those terms are defined at 40 CFR 61.141.

14. The owner and operator of a renovation activity subject to the asbestos NESHAP is required by 40 CFR 61.145(b)(1) to provide to the Illinois EPA notification of renovation activity at least 10 working days prior to commencing such activity. Chippewa did not provide written notification to the Illinois EPA prior to the commencement of renovation activities at the facility, thereby violating 40 CFR 61.145(b)(1) and Section 9.1(d) of the Act, 415 ILCS 5/9.1(d)

(2004).

15. On March 10, 2005, the Illinois EPA inspected the facility and observed a substantial amount of debris within, and on the ground adjacent to, two open dumpsters in the rear of the facility. The debris had been subjected to mechanical chipping and was crushed, dry, and friable waste material suspected to contain asbestos; subsequent analyses of five samples revealed asbestos in a range of six to twelve per cent. The material was not wet.

16. The Respondent failed to adequately wet and keep wet, collect, contain and deposit as soon as practicable all RACM and asbestos-containing waste materials generated during the removal at a site permitted to accept such waste, and thereby violated Section 9.1(d) of the Act, 415 ILCS 9.1(d)(2004), 40 CFR 61.145(c)(6), and 40 CFR 61.150(b)(1).

**PRAYER FOR RELIEF**

WHEREFORE, the Complainant, People of the State of Illinois, respectfully requests that this 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 the Respondent has violated the Act and regulations as alleged herein;

C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;

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

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2004), award the

Complainant its costs in this matter, including reasonable attorney's fees and costs; and

F. Grant such other and further relief as the Board deems appropriate.

## COUNT II

### AIR POLLUTION VIOLATIONS

1-16. Complainant realleges and incorporates herein by reference paragraphs 1 through 16 of Count I as paragraphs 1 through 16 of this Count II.

17. Section 9(a) of the Act, 415 ILCS 5/9(a) (2004), provides:

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;

18. Section 201.141 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.141 (2004), provides:

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.

19. Section 3.115 of the Act, 415 ILCS 3.115 (2004), provides the following definition:

“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 3.165 of the Act, 415 ILCS 5/3.165 (2004), defines contaminant as:

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

21. Asbestos is a contaminant as that term is defined in Section 3.165 of the Act.

22. By failing to adequately wet and keep wet all RACM removed during renovation activities until collected and contained in leak-tight wrapping in preparation for disposal, to utilize equipment or methods to properly control the emission of asbestos, and to deposit as soon as practicable all regulated asbestos-containing waste material at a site permitted to accept such waste, the Respondent has threatened the emission of contaminants into the environment so as to tend to cause air pollution and thereby violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2004), and Section 201.141 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.141.

**PRAYER FOR RELIEF**

WHEREFORE, the Complainant, People of the State of Illinois, respectfully requests that this 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 the Respondent has violated the Act and regulations as alleged herein;

C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;

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

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

F. Grant such other and further relief as the Board deems appropriate.

**COUNT III**

**NONPAYMENT OF STATUTORILY REQUIRED FEES**

1-16. Complainant realleges and incorporates herein by reference paragraphs 1 through 16 of Count I as paragraphs 1 through 16 of this Count III.

17. Section 9.13(b) of the Act, 415 ILCS 5/9.13(b) (2004), provides as follows:

\* \* \*

(b) If demolition or renovation of a site has commenced without proper filing of the 10-day Notice, the fee is double the amount otherwise due. This doubling of the fee is in addition to any other penalties under this Act, the federal NESHAP, or otherwise, and does not preclude the Agency, the Attorney General, or other authorized persons from pursuing an enforcement action against the owner or operator for failure to file a 10-day Notice prior to commencing demolition or renovation activities.

\* \* \*

18. Chippewa has not paid the statutory fee of three hundred dollars (\$300.00) required by Section 9.13 of the Act, 415 ILCS 5/9.13 (2004).

19. By failing to pay the statutorily required fee, the Respondent has violated Section 9.13 of the Act, 415 ILCS 5/9.13 (2004).

**PRAYER FOR RELIEF**

WHEREFORE, the Complainant, People of the State of Illinois, respectfully requests that this 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 the Respondent has violated the Act and regulations as alleged herein;

C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;

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

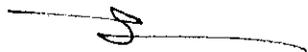
E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2004), award the Complainant its costs in this matter, including reasonable attorney's fees and costs; and

F. Grant such other and further relief as the Board deems appropriate.

Respectfully submitted,

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

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

BY:   
THOMAS DAVIS, Chief  
Environmental Bureau  
Assistant Attorney General

Of Counsel:

Jennifer Bonkowski  
Assistant Attorney General  
500 South Second Street  
Springfield, Illinois 62706  
217/782-9031

Dated: 1/18/07