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STATE OF ILLINOIS
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

March 19, 2008

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. AET Environmental, Inc., a Colorado corp., and E.O.R. Energy, LLC,***
a Colorado limited liability company
PCB No. 07-95

Dear Sir:

Enclosed for filing please find the original and five copies of a Notice of Filing and COMPLAINANT'S REQUEST TO ADMIT FACTS BY AET ENVIRONMENTAL, INC., 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,

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

MDM/pp
Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.)
)
AET ENVIRONMENTAL, INC., a)
Colorado corporation, E.O.R. ENERGY,)
LLC, a Colorado limited liability)
company,)
)
Respondent.)

PCB No. 07-95
(Enforcement)

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Pollution Control Board

NOTICE OF FILING

To: AET ENVIRONMENTAL, INC.
c/o Lori M. Devito, R.A.
14 Lakeside Lane
Denver, CO 80212

PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois, COMPLAINANT'S REQUEST TO ADMIT FACTS BY AET ENVIRONMENTAL, INC., copies of which are attached hereto and herewith served upon you.

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: Michael D. Mankowski
MICHAEL D. MANKOWSKI
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: March 19, 2008

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MAR 24 2008

STATE OF ILLINOIS
Pollution Control Board

CERTIFICATE OF SERVICE

I hereby certify that I did on March 19, 2008, send by First Class 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 and COMPLAINANT'S REQUEST TO ADMIT FACTS BY AET ENVIRONMENTAL, INC.

To: AET ENVIRONMENTAL, INC.
c/o Lori M. Devito, R.A.
14 Lakeside Lane
Denver, CO 80212

and the original and five 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

A copy was also sent by First Class Mail with postage thereon fully prepaid to:

Carol Webb
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
Springfield, IL 62794



MICHAEL D. MANKOWSKI
Assistant Attorney General

This filing is submitted on recycled paper.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
 ex rel. LISA MADIGAN, Attorney General)
 of the State of Illinois,)
)
 Complainant,)
)
 v.)
)
 AET ENVIRONMENTAL, INC., a Colorado)
 corporation, E.O.R. ENERGY, LLC, a)
 Colorado limited liability company,)
)
 Respondents.)

PCB No. 07-95
(Enforcement)

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 STATE OF ILLINOIS
 Pollution Control Board

COMPLAINANT'S REQUEST TO ADMIT FACTS BY AET ENVIRONMENTAL, INC.

NOW COMES the Complainant, People of the State of Illinois, by Lisa Madigan, Attorney General of the State of Illinois, and pursuant to Section 101.618 of the Illinois Pollution Control Board's ("Board") Discovery Regulations, submits this request for the admission of the truth of the following specified relevant facts within 28 days after service hereof. Failure to respond to the following requests to admit within 28 days may have severe consequences. Failure to respond to the following requests will result in the all of the facts requested being deemed admitted as true for this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding or an attorney.

1. AET is a hazardous waste broker.
2. AET handles the logistics of transportation, storage, and disposal for companies that generate hazardous waste.
3. Lori Devito is the owner of AET.
4. Lori Devito was the owner of AET during the months of July and August in the year 2002.
5. Arthur Clark is employed by AET.

6. Arthur Clark was employed by AET during the months of July and August in the year 2002.
7. Dana Landagora is employed by AET.
8. Dana Landagora was employed by AET during the months of July and August in the year 2002.
9. Frank Virginia is employed by AET.
10. Frank Virginia was employed by AET during the months of July and August in the year 2002.
11. Frank Gines is employed by AET
12. Frank Gines was employed by AET during the months of July and August in the year 2002.
13. Chris Allred is employed by AET
14. Chris Allred was employed by AET during the months of July and August in the year 2002.
15. On or about July 15, 2002, the Grand Junction Colorado Fire Department responded to an emergency response incident at the Luxury Wheels Facility in Grand Junction, CO.
16. In July of 2002, Luxury Wheels was engaged in the production of custom chrome automobile wheels.
17. In July 2002, part of Luxury Wheels' business included the chrome plating of aluminum automobile wheels.
18. On July 15, 2002, the fire department emergency response involved a tank of acid material that had overheated and was generating gases.
19. The acid material was stabilized with ice.

20. In July of 2002, AET was hired to remove the acid material involved in the July 15th incident from Luxury Wheels in Grand Junction, CO.

21. In July of 2002, AET was hired to dispose of the acid material involved in the July 15th incident from Luxury Wheels in Grand Junction, CO.

22. AET supplied eight (8) two hundred and seventy five (275) gallon totes to Luxury Wheels to place the acid in.

23. AET obtained the totes from Greif Bros. Corporation.

24. Greif Bros. Corporation shipped the totes to Luxury Wheels.

25. The totes were new and unused.

26. Luxury Wheels employees placed the acid material into the eight (8) totes provided by AET.

27. AET employees placed the acid material into the eight (8) totes.

28. AET made the decision to ship the acid material to Arvada Treatment Center ("ATC") in Arvada, CO for disposal.

29. As part of the disposal process Luxury Wheels created a waste profile for the acid material.

30. As part of the disposal process AET created a waste profile for the acid material.

31. The Waste Material Profile Sheet submitted to ATC for the acid material was dated 7/16/02.

32. The Waste Material Profile Sheet submitted to ATC for the acid material was signed by Chris Allred.

33. In order to create the waste profile submitted to ATC, AET analyzed the material itself.

34. AET relied upon the generator's knowledge in creating the waste profile submitted to ATC.
35. In the process of creating the waste profile submitted to ATC, AET asked the generator if the acid material contained chromium.
36. On the Waste Material Profile Sheet submitted to ATC for the acid material, the acid material is listed as Aluminum Etch (Fluoboric Acid, Glycolic acid).
37. On the Waste Material Profile Sheet submitted to ATC for the acid material, the process generating the waste is described as, "etching of aluminum prior to nickel plating."
38. On the Waste Material Profile Sheet submitted to ATC for the acid material, the box for "unused chemical or product" in the "Process Generating Waste" section is unchecked.
39. On the Waste Material Profile Sheet submitted to ATC for the acid material, the box for "Other" in the "Process Generating Waste" section is checked.
40. On the Waste Material Profile Sheet submitted to ATC for the acid material, the line next to the "Other" option in the "Process Generating Waste" section contains the words "etching solution for aluminum."
41. On the Waste Material Profile Sheet submitted to ATC for the acid material, the box for "Unused Product or Chemical" is unchecked in the "Source of Waste" section.
42. AET created a Hazardous Waste Manifest to accompany the shipment of acid material.
43. The Hazardous Waste Manifest listed Luxury Wheels as the Generator.
44. The Hazardous Waste Manifest listed SLT Express as Transporter 1.
45. The Hazardous Waste Manifest described the acid material as "WASTE CORROSIVE LIQUID, N.O.S., (CONTAINS FLUOROBORIC ACID COLYCOLIC ACID) 8, UN1760, PGII.."

46. The Hazardous Waste Manifest listed the acid material as D002 for corrosive hazardous waste.
47. The Hazardous Waste Manifest listed the acid material as D003 for reactive hazardous waste.
48. The Hazardous Waste Manifest listed ATC as the designated facility.
49. On July 18, 2002, SLT Express picked up the acid material at Luxury Wheels.
50. Despite the listing of SLT Express as Transporter 1 on the Hazardous Waste Manifest, the shipment of acid material was transported by Dana Landagora..
51. Despite the listing of SLT Express as Transporter 1 on the Hazardous Waste Manifest, AET picked up the acid material at Luxury Wheels.
52. On July 18, 2002, SLT Express transported the acid material to ATC.
53. On July 18, 2002, SLT Express transferred the acid material to AET at the AET 10-day transfer facility in Denver, CO.
54. On July 19, 2002, SLT Express transferred the acid material to AET at the AET 10-day transfer facility in Denver, CO.
55. The acid material was clear when it came into AET's possession.
56. On July 19, 2002, the acid material was shipped offsite from the AET 10-day transfer facility in Denver, CO, for disposal at Arvada Treatment Center ("ATC") in Arvada, CO.
57. On July 19, 2002, Dana Landagora was the driver of the truck that transported the acid material from the AET facility to ATC.
58. On July 19, 2002, the acid material arrived at ATC.
59. Upon arrival, the acid material was assessed by ATC employees.
60. When ATC employees opened one of the plastic totes containing the acid material a colored gas was released.

61. ATC employees rejected the acid material.
62. ATC employees rejected the acid material because the material in the containers was reacting.
63. After the load of material was rejected by ATC, the Hazardous Waste Manifest was modified.
64. Before the load of material was rejected by ATC, an the Hazardous Waste Manifest was modified.
65. The Hazardous Waste Manifest was modified by an AET employee.
66. The modified Hazardous Waste Manifest listed AET as Transporter 2.
67. The modified Hazardous Waste Manifest listed Safety Kleen, in Deer Trail, CO as an alternative designated facility.
68. On July 19, 2002, the acid material was transported by AET from ATC to Safety Kleen.
69. On or about July 19, 2002, AET prepared a hazardous waste profile for the acid material and submitted it to Safety Kleen.
70. Safety Kleen is also known as Clean Harbors.
71. The Waste Material Profile Sheet submitted to Safety Kleen for the acid material had a Clean Harbors letterhead.
72. The Waste Material Profile Sheet submitted to Safety Kleen for the acid material was profile number CH 106488.
73. In order to create the waste profile submitted to Safety Kleen, AET analyzed the material itself.
74. AET relied upon the generator's knowledge in creating the waste profile submitted to Safety Kleen.

75. In the process of creating the waste profile submitted to Safety Kleen, AET asked the generator if the acid material contained chromium.

76. On the Waste Material Profile Sheet submitted to Safety Kleen for the acid material, the common name of the acid material is described as "Spent Aluminum Etchant."

77. On the Waste Material Profile Sheet submitted to Safety Kleen for the acid material, the process generating the acid material is described as, "Etching of Aluminum Wheels."

78. On the Waste Material Profile Sheet submitted to Safety Kleen for the acid material, the box for "unused chemical or product" in the "Process Generating Waste" section is unchecked.

79. On the Waste Material Profile Sheet submitted to Safety Kleen for the acid material, the box for "Other" in the "Process Generating Waste" section is checked.

80. On the Waste Material Profile Sheet submitted to Safety Kleen for the acid material, the line next to the "Other" option in the "Process Generating Waste" section contains the words "acid etch of aluminum."

81. On the Waste Material Profile Sheet submitted to Safety Kleen for the acid material, the box for "Unused Product or Chemical" is unchecked in the "Source of Waste" section.

82. On the Waste Material Profile Sheet submitted to Safety Kleen for the acid material, the box for "Waste by-product from process" is checked in the "Source of Waste" section.

83. On the Waste Material Profile Sheet submitted to Safety Kleen for the acid material, the acid material is described as having an undisclosed or prior incident associated with it which could affect the way it should be handled.

84. On the Waste Material Profile Sheet submitted to Safety Kleen for the acid material, AET stated that the acid material may form an orange cloud under extreme heat.

85. While the acid material was en route to Safety Kleen, the load was rejected by Safety Kleen.

86. After the load was rejected, AET transported the acid material to the AET 10-day transfer facility in Denver, CO.

87. The acid material was creating an orange gas in one or more of the totes when it arrived at the AET storage facility.

88. The acid material was off-gassing an orange gas from one or more of the totes when it arrived at the AET storage facility.

89. The acid material was placed into a semi-trailer when it arrived at the AET storage facility.

90. The trailer was left open during the daytime.

91. A fan was placed in the trailer.

92. The totes containing the acid material were left slightly open to vent gas building up in the totes.

93. The fan was utilized to remove the orange vapor, escaping the totes, from the trailer.

94. In July of 2002, AET contacted Vickery Environmental, Inc. ("Vickery") located in Vickery, OH, to discuss the disposal of the acid material.

95. The disposal method that Vickery suggested was deep well injection.

96. In July of 2002, AET prepared a hazardous waste profile for the acid material and submitted it to Vickery.

97. In order to create the waste profile submitted to Vickery, AET analyzed the material itself.

98. AET relied upon the generator's knowledge in creating the waste profile submitted to Vickery.

99. In the process of creating the waste profile submitted to Vickery, AET asked the generator if the acid material contained chromium.

100. On the Waste Material Profile Sheet submitted to Vickery for the acid material, the name of the acid material is described as "Spent Aluminum Etchant."

101. On the Waste Material Profile Sheet submitted to Vickery for the acid material, the process generating the acid material is described as, "Etching of Aluminum Wheels."

102. On the Waste Material Profile Sheet submitted to Vickery for the acid material, the answer "Yes" was given in response to the question, "Is this a USEPA hazardous waste (40 CFR Part 261)?" on line 7A.

103. On the Waste Material Profile Sheet submitted to Vickery for the acid material, the waste color is identified as "CLEAR" on line 24.

104. The Waste Material Profile Sheet submitted to Vickery for the acid material, was signed by Frank Virginia.

105. The Waste Material Profile Sheet submitted to Vickery for the acid material, listed Frank Virginia as an agent for Luxury Wheels.

106. The Waste Material Profile Sheet submitted to Vickery for the acid material was dated, "7/26/02".

107. While under the control of AET, an exothermic reaction occurred within one or more of the totes containing the acid material.

108. While under the control of AET, the acid material in one or more of the totes attained a temperature sufficient to melt the tote containing it.

109. While under the control of AET, one or more of the totes containing the acid material were replaced.

110. While under the control of AET, one or more of the totes containing the acid material were replaced because they had melted.

111. While under the control of AET, additional material was added to the acid material.

112. While under the control of AET, the acid material was diluted with water.

113. An AET employee diluted the acid material with water.

114. While under the control of AET, the acid material was diluted with glycolic acid.

115. An AET employee diluted the acid material with glycolic acid.

116. After dilution the acid material filled twelve (12) two hundred and seventy five (275) gallon totes.

117. While the acid material was under the control of AET, EOR Energy, LLC ("EOR"), inquired about the acid material.

118. EOR's office was located in the same building as AET during the months of July and August in the 2002.

119. Arthur Clark is a principal in EOR.

120. EOR purchased the acid material from AET.

121. AET gave the acid material to EOR.

122. Luxury Wheels gave the acid material to EOR.

123. EOR purchased the acid material from Luxury Wheels.

124. On August 30, 2002, the load of twelve (12) totes of acid material was shipped from the AET warehouse in Denver, CO, to Kincaid P&P in Pawnee, IL.

125. AET paid to ship the acid material to Pawnee, IL.

126. EOR paid to ship the acid material to Pawnee, IL.

127. Luxury Wheels paid to ship the acid material to Pawnee, IL.

128. The acid material was not shipped with a Hazardous Waste Manifest.

129. The acid material was shipped with a Hazardous Material Bill of Lading.

130. The Hazardous Material Bill of Lading was dated "8/30/02."

131. The Hazardous Material Bill of Lading listed the Shipper as Luxury Wheels.

132. The Hazardous Material Bill of Lading listed the Consignee as Kincaid P&P.

133. The Hazardous Material Bill of Lading listed Kincaid P&P's address as "Route 104 (EAST OF PAWNEE)," Pawnee, IL 62558.

134. The Hazardous Material Bill of Lading listed the acid material as "CORROSIVE LIQUID ACID, INORGANIC, N.O.S. (PHOSPHORIC, NITRIC), 8, UN3264, PGII."

135. The Hazardous Material Bill of Lading is signed by Frank Gines.

136. The Hazardous Material Bill of Lading lists Frank Gines as the Agent for Luxury Wheels.

137. The Hazardous Material Bill of Lading listed the Carrier as SLT Express.

138. The acid material was a blue-green color when it arrived in Pawnee, IL.

139. AET never refunded any money paid by Luxury Wheels to AET for the disposal of the acid material after the acid material was sent to the Pawnee, IL location.

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:


MICHAEL MANKOWSKI
Environmental Bureau
Assistant Attorney General

Attorney Reg. No. 6287767
500 South Second Street
Springfield, Illinois 62706
217/557-0586
Dated: March 19, 2008

