

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
-vs-)	PCB No.
)	
WAHL CLIPPER CORPORATION,)	
an Illinois corporation,)	
)	
Respondent.)	

NOTICE OF ELECTRONIC FILING

PLEASE TAKE NOTICE that we have today, November 14, 2011, filed the initial Complaint in this matter with the Office of the Clerk of the Illinois Pollution Control Board, by electronic filing. A true and accurate copy of the Complaint is attached herewith and 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 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.

RESPECTFULLY SUBMITTED,

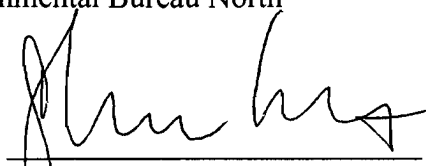
PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN
Attorney General of the
State of Illinois

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

ROSEMARIE CAZEAU, Chief
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BY:



CHRISTOPHER GRANT
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69 W. Washington Street, #1800
Chicago, Illinois 60602
(312) 814-5388

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
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-vs-)	PCB No.
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WAHL CLIPPER CORPORATION,)	
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, WAHL CLIPPER CORPORATION, as follows:

COUNT I
STORAGE OF HAZARDOUS WASTE WITHOUT A PERMIT

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, 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 (2010).

2. The Illinois EPA is an administrative agency of the State of Illinois, established by Section 4 of the Act, 415 ILCS 5/4 (2010), and is charged, *inter alia*, with the duty of enforcing the Act, and regulations promulgated by the Illinois Pollution Control Board ("Board").

3. Respondent, WAHL CLIPPER CORPORATION ("WCC"), is an Illinois corporation, duly authorized to transact business in the State of Illinois.

4. WCC owns and operates an appliance manufacturing facility located at 2900 North Locust, Sterling, Whiteside County, Illinois ("Site").

5. The Site has never been covered by a RCRA permit authorizing the storage of hazardous waste.

6. As a regular part of its manufacturing process, WCC grinds and polishes metal parts and applies inks, paints, and other coatings.

7. WCC generates a number of waste streams in the normal course of its manufacturing business, including used oil, spent part washer solvent, metal grinding waste, waste paints, and waste inks.

8. On April 26, 1992, WCC provided initial notification to the United States Environmental Protection Agency ("USEPA") that it generated hazardous waste. WCC advised USEPA that it generated between 100 kilograms per month and 1000 kilograms per month of hazardous waste, and qualified as a 'small quantity generator' of hazardous waste.

9. As shown by hazardous waste manifests provided by WCC to Illinois EPA, the hazardous waste generated by WCC at the Site includes spent part washer solvent, with USEPA waste code D039, and waste paint and ink, with USEPA hazardous waste codes D001 and F005.

10. On June 24, 2010, an Illinois EPA inspector visited the Site to perform an inspection. The inspector observed that WCC was storing waste paint and waste ink in a drum at the Site. WCC had failed to label the drum with the date of first accumulation of the waste paint and waste ink, and had failed to label the drum "hazardous waste".

11. Section 21(f) of the Act, 415 ILCS 5/21(f) (2010), provides, in pertinent part, as follows:

No person shall:

* * *

- f. Conduct any hazardous waste-storage, hazardous waste-treatment or hazardous waste-disposal operation:
 - 1. Without a RCRA permit for the site issued by the Agency under subsection (d) of Section 39 of this Act, or in violation of any condition imposed by such permit, including periodic reports and full access to adequate records and the inspection of facilities, as may be necessary to assure compliance with this Act and with regulations and standards adopted thereunder; or
 - 2. In violation of any regulations or standards adopted by the Board under this Act

* * *

- 12. Section 3.315 of the Act, 415 ILCS 5/3.315 (2010), provides, as follows:

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

- 13. Respondent WCC, an Illinois corporation, is a “person” as that term is defined in the Act.

- 14. Pursuant to authority granted under Section 5 of the Act, 415 ILCS 5/5/ (2010), the Board has adopted standards regulating hazardous waste management facilities, and the storage of hazardous waste, codified at 35 Ill. Adm. Code, Parts 700 through 750 (“Board Hazardous Waste regulations”).

- 15. Section 703.121 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 703.121, provides, in pertinent part, as follows:

Section 703.121 RCRA Permits

- a) No person may conduct any hazardous waste storage, hazardous waste treatment, or hazardous waste disposal operation as follows:

- 1) Without a RCRA Permit for the HWM (hazardous waste management facility);

* * *

- b) An owner or operator of a HWM unit must have permits during the active life (including the closure period) of the unit....

16. Section 721.102 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code

721.102, provides, in pertinent part, as follows:

Section 721.102 Definition of Solid Waste

- a) Solid waste.

- 1) A solid waste is any discarded material that is not excluded by Section 721.104(a) or that is not excluded pursuant to 35 Ill. Adm. Code 720.130 and 720.131.

- 2) A discarded material is any material that is described as follows:

A) abandoned, as explained in subsection (b) of this Section;

* * *

- b) A material is a solid waste if it is abandoned in one of the following ways:

* * *

- 3) It is accumulated, stored, treated, (but not recycled) before or in lieu of being abandoned by being disposed of, burned, or incinerated.

* * *

17. The Respondent accumulated and stored waste paint and waste ink at the Site before, or in lieu of, disposing of the waste. The waste paint and ink is therefore "solid waste" as defined in Section 721.102 of the Hazardous Board Waste regulations, 35 Ill. Adm. Code 721.102.

18. Section 721.103 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code

721.103 provides, in pertinent part, as follows:

Section 721.103 Definition of Hazardous Waste

- a) A solid waste, as defined in Section 721.102, is a hazardous waste if the following is true of the waste:
 - 1) It is not excluded from regulation as a hazardous waste pursuant to Section 721.104(b); and
 - 2) It meets any of the following criteria:
 - A) It exhibits any of the characteristics of hazardous waste identified in Subpart C of this Part....
 - B) It is listed in Subpart D of this Part....

* * *

19. Subpart C of the Board Hazardous Waste regulations, 35 Ill. Adm. Code, Subtitle G, Chapter I, Subchapter c, Subpart C, provides, in pertinent part, as follows:

SUBPART C: CHARACTERISTICS OF HAZARDOUS WASTE

Section 721.120 General

- a) A solid waste, as defined in Section 721.102, which is not excluded from regulation as a hazardous waste under Section 721.104(b), is a hazardous waste if it exhibits any of the characteristics identified in this Subpart C.

* * *

20. Section 721.121 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 721.121 provides, in pertinent part, as follows:

Section 721.121 Characteristic of Ignitability

* * *

- b) A solid waste that exhibits the characteristic of ignitability has the USEPA hazardous waste number of D001.

21. Subpart D of the Board Hazardous Waste regulations, 35 Ill. Adm. Code, Subtitle G, Chapter I, Subchapter c, Subpart D, provides, in pertinent part, as follows:

SUBPART D: LISTS OF HAZARDOUS WASTE

Section 721.130 General

a) A solid waste is a hazardous waste if it is listed in this Subpart D, unless it has been excluded from this list pursuant to 35 Ill. Adm. Code 720.120 and 720.122.

22. Section 721.131 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 721.131, provides, in pertinent part, as follows:

Section 721.131 Hazardous Wastes from Nonspecific Sources

The following solid wastes are listed hazardous wastes from non-specific sources....

* * *

USEPA Hazardous Waste No.

F005

23. As shown by the hazardous waste manifests provided by WCC to Illinois EPA, the waste paint and waste ink accumulated and stored by WCC at the Site are assigned USEPA hazardous waste numbers D001 and F005. The waste paint and waste ink stored at the Site are "characteristic" hazardous wastes because of their characteristic of ignitability, and are also "listed" hazardous wastes.

24. Section 702.110 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 702.110, provides the following definitions:

"Generator" (RCRA) means any person, by site location, whose act or process produces hazardous waste.

* * *

“Hazardous waste management facility or "HWM facility" (RCRA) means all contiguous land, and structures, other appurtenances and improvements on the land, used for treating, storing or disposing of hazardous waste. A facility may consist of several treatment, storage or disposal operational units (for example, one or more landfills, surface impoundments or combinations of them).

* * *

“Storage” (RCRA) means the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.

25. WCC produced hazardous waste, in the form of waste paint and waste ink, in the normal course of its manufacturing process. WCC is therefore a ‘generator’ of hazardous waste as that term is defined in Section 702.110 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 702.110.

26. The Site was used for the storage of hazardous waste, and is therefore a ‘hazardous waste management facility’ as that term is defined in Section 702.110 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 702.110.

27. WCC owns and operates the Site, and is therefore the owner and operator of a hazardous waste management facility.

28. WCC stored hazardous waste at the Site, and thereby conducted a hazardous waste storage operation.

29. Section 722.134 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 722.134, provides, in pertinent part, as follows:

Section 722.134 Accumulation Time

- a) Except as provided in subsection (d), (e), (f), (g), (h), or (i) of this Section, a generator is exempt from all the requirements in Subparts G and H of 35 Ill. Adm. Code 725, except for 35 Ill. Adm. Code 725.211 and 725.214, and may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that the following conditions are fulfilled:

* * *

- 2) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;
- 3) While being accumulated on-site, each container and tank is labeled or marked clearly with the words "Hazardous Waste";

30. WCC failed to mark the waste paint and waste ink container at the Site with the date of accumulation, and failed to mark the storage container as "hazardous waste". Therefore, the exemption from obtaining a RCRA permit contained in Section 722.134 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 722.134, did not apply to WCC.

31. By conducting a hazardous waste storage operation without a RCRA Permit, the Respondent violated Section 21(f) of the Act, 415 ILCS 5/21(f) (2010), and Section 703.121 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 703.121.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against the Respondent, WAHL CLIPPER CORPORATION, on Count I:

1. Authorizing a hearing in this matter, at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated Section 21(f) of the Act, and 35 Ill. Adm. Code 703.121;
3. Ordering the Respondent to cease and desist from any further violation of Section 21(f) of the Act, and 35 Ill. Adm. Code 703.121;
4. Assessing against the Respondent a civil penalty of Twenty Five Thousand Dollars (\$25,000.00) for each day of violation of Section 21(f) of the Act, and 35 Ill. Adm. Code 703.121;

5. Ordering the Respondent to pay all costs, 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
VIOLATION OF HAZARDOUS WASTE MANIFEST REGULATIONS

1-24. Complainant realleges and incorporates by reference herein paragraphs 1 through 14, and paragraphs 16 through 25, of Count I, as paragraphs 1 through 24 of this Count II.

25. At the June 24, 2010 inspection, the Illinois EPA inspector requested and obtained copies of hazardous waste manifests covering WCC's shipment of hazardous waste for transport and disposal. The inspector observed that six of the manifests for shipments of hazardous waste made between May 14, 2009 and February 18, 2010, did not include the signature of the hazardous waste receiving facility. The six deficient manifests were numbered 001916489SKS, 002000027SKS, 002000454SKS, 000308352CEX, 002188563SKS, and 002234358SKS.

26. As of June 24, 2010, WCC had not provided Illinois EPA with copies of manifests for the waste shipments described in Paragraph 25, nor had WCC advised Illinois EPA that it had not received copies of manifests signed by a the hazardous waste receiving facility. On October 12, 2010, copies of manifests for these shipments were provided to Illinois EPA.

27. Section 722.120 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 722.120, provides, in pertinent part, as follows:

SUBPART B: THE MANIFEST

Section 722.120 General Requirements

- a) A generator that transports hazardous waste or offers a hazardous waste for transportation for off-site treatment, storage, or disposal or a treatment, storage, or disposal facility that offers for transport a rejected load of hazardous waste must prepare a manifest on USEPA Form 8700-22 (and, if necessary, on USEPA Form 8700-22A) according to the instructions

included in the appendix to 40 CFR 262 (Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

* * *

28. Section 722.140 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code

722.140, provides, in pertinent part, as follows:

Section 722.140 Recordkeeping

- a) A generator must keep a copy of each manifest signed in accordance with Section 722.123(a) for three years or until it receives a signed copy from the designated facility that received the waste. This signed copy must be retained as a record for at least three years from the date the waste was accepted by the initial transporter.

* * *

29. Section 722.142 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code

722.142, provides, in pertinent part, as follows:

Section 722.142 Exception Reporting

* * *

- b) A generator of greater than 100 kilograms but less than 1,000 kilograms of hazardous waste in a calendar month that does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 60 days after the date the waste was accepted by the initial transporter must submit a legible copy of the manifest to the Agency, with some indication that the generator has not received confirmation of delivery.

BOARD NOTE: The submission need be only a handwritten or typed note on the manifest itself, or on an attached sheet of paper, stating that the returned copy was not received.

30. WCC was required under 35 Ill. Adm. Code 722.142(b) to provide Illinois EPA with copies of the six manifests described in paragraph 25 herein, along with a notation that it had not received a signed manifest from the hazardous waste receiving facility. By failing to

submit these manifests to Illinois EPA until October 12, 2010, WCC violated Section 722.142(b) of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 722.142(b), and thereby also violated Section 21(f) of the Act, 415 ILCS 5/21(f)(1) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against the Respondent, WAHL CLIPPER CORPORATION, on Count II:

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

2. Finding that the Respondent has violated Section 21(f) of the Act, and 35 Ill. Adm. Code 722.142(b);

3. Ordering the Respondent to cease and desist from any further violation of Section 21(f) of the Act, and 35 Ill. Adm. Code 722.142(b);

4. Assessing against the Respondent a civil penalty of Twenty Five Thousand Dollars (\$25,000.00) for each day of violation of Section 21(f) of the Act, and 35 Ill. Adm. Code 722.142(b);

5. Ordering the Respondent to pay all costs, 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 III
IMPROPER STORAGE OF USED OIL

1-10. Complainant realleges and incorporates by reference herein paragraphs 1 through 10 of Count I, as paragraphs 1 through 10 of this Count III.

11. In the normal course of its manufacturing business, WCC generates contaminated crude oil or synthetic oil ("used oil").

12. At the June 24, 2010 inspection, the Illinois EPA inspector observed that WCC was generating and storing used oil in containers within the plant building, and in an above ground storage tank. However, WCC had failed to label the containers or the above ground storage tank with a sign or label identifying the contents as "Used Oil".

13. Pursuant to authority granted under Sections 7.2 and 22.4 of the Act, 415 ILCS 5/7.2 and 5/22.4 (2010), the Board has promulgated regulations related to the storage, reprocessing, and disposal of used oil, codified at 35 Ill. Adm. Code, Part 739 ("Used Oil regulations").

14. Section 739.100 of the Used Oil regulations, 35 Ill. Adm. Code 739.100, provides, in pertinent part, as follows:

Section 739.100 Definitions

* * *

"Used oil" means any oil that has been refined from crude oil or any synthetic oil that has been used and as a result of such use is contaminated by physical or chemical impurities.

* * *

"Used oil generator" means any person, by site, whose act or process produces used oil or whose act first causes used oil to become subject to regulation.

15. WCC generated "used oil", and therefore is a "used oil generator" as those terms are defined and used in Section 739.100 of the Board Hazardous Waste regulations, 35 Ill. Adm. Code 730.100.

16. Section 739.122 of the Used Oil regulations, 35 Ill. Adm. Code 739.122, provides, in pertinent part, as follows:

Section 739.122 Used Oil Storage

A used oil generator is subject to all applicable federal Spill Prevention, Control and Countermeasures (40 CFR 112) in addition to the requirements of this Subpart C. A used oil generator is also subject to the Underground Storage Tank (35 Ill. Adm. Code 731) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this Subpart C.

* * *

c) Labels.

- 1) Containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words "Used Oil."

17. WCC generated used oil, and stored used oil in aboveground tanks and containers at the Site, but failed to label or clearly mark these aboveground tanks and containers with the words "Used Oil". By failing to label the aboveground tanks and containers, WCC violated Section 739.122(c)(1) of the Used Oil regulations, 35 Ill. Adm. Code 739.122(c)(1).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against the Respondent, WAHL CLIPPER CORPORATION, on Count III:

1. Authorizing a hearing in this matter, at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated 35 Ill. Adm. Code 739.122(c)(1);
3. Ordering the Respondent to cease and desist from any further violation of 35 Ill. Adm. Code 739.122(c)(1);
4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of 35 Ill. Adm. Code 739.122(c)(1), and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day the violation continued;

5. Ordering the Respondent to pay all costs, 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 IV
FAILURE TO PERFORM A SPECIAL WASTE DETERMINATION

1-11. Complainant realleges and incorporates by reference herein paragraphs 1 through 9, and paragraphs 12 through 13, of Count I, as paragraphs 1 through 11 of this Count IV.

12. In the normal course of its manufacturing business, WCC generates approximately fourteen thousand pounds per week of metal bits and shavings from the grinding or cutting of metal ("Metal Grinding Waste"). The Metal Grinding Waste is discarded and disposed of at a municipal solid waste landfill.

13. As determined by the Illinois EPA inspector on June 24, 2010, WCC had not tested or evaluated the Metal Grinding Waste to determine whether it was a special waste.

14. Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2010), provides, in pertinent part, as follows:

No person shall:

- 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;

15. Section 3.535 of the Act, 415 ILCS 5/3.535 (2010), 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....

16. WCC discarded the Metal Grinding Waste by disposing it at a municipal solid waste landfill. The Metal Grinding Waste is “waste” as that term is defined by Section 3.353 of the Act, 415 ILCS 5/3.353 (2010).

17. WCC disposed of the Metal Grinding Waste, and thereby conducted a waste disposal operation.

18. Pursuant to authority granted under Section 5 of the Act, the Board has adopted standards regulating the disposal of non hazardous solid waste and special waste, codified at 35 Ill. Adm. Code Parts 807 through 832 (“Board Waste Disposal regulations”).

19. Section 808.121(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(a), provides as follows:

Section 808.121 Generator Obligations

a) Each person who generates waste shall determine whether the waste is a special waste.

BOARD NOTE: 35 Ill. Adm. Code 722 requires the person to also determine if the waste is a hazardous waste.

* * *

20. WCC generated and disposed of the Metal Grinding Waste without first testing or evaluating the waste to determine whether it was a special waste.

21. By failing to evaluate the Metal Grinding Waste to determine whether it was a special waste prior to disposal, WCC violated Section 808.121(a) of the Board Waste Disposal regulations, 35 Ill. Adm. Code 808.121(a), and thereby also violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against the Respondent, WAHL CLIPPER CORPORATION, on Count IV:

1. Authorizing a hearing in this matter, at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated Section 21(d)(2) of the Act, and 35 Ill. Adm. Code 808.121(a);
3. Ordering the Respondent to cease and desist from any further violation of Section 21(d)(2) of the Act, and 35 Ill. Adm. Code 808.121(a);
4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for violation of Section 21(d)(2) of the Act, and 35 Ill. Adm. Code 808.121(a), and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day the violation continued;
5. Ordering the Respondent to pay all costs, 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 V

FAILURE TO PERFORM A HAZARDOUS WASTE DETERMINATION

1-16. Respondent realleges and incorporates by reference herein paragraphs 1 through 14, and paragraph 16, of Count I, and paragraph 12 of Count IV, as paragraphs 1 through 16 of this Count V.

17. As determined by the Illinois EPA inspector on June 24, 2010, WCC had not tested or evaluated the metal grinding waste to determine whether it was a hazardous waste.

18. Section 722.111 of the Board Hazardous Waste Regulations, 35 Ill. Adm. Code 722.111, provides, in pertinent part, as follows:

Section 722.111 Hazardous Waste Determination

A person that generates a solid waste, as defined in 35 Ill. Adm. Code 721.102, must determine if that waste is a hazardous waste using the following method:

- a) The person should first determine the waste is excluded from regulation under 35 Ill. Adm. Code 721.104.
- b) The person should then determine if the waste is listed as a hazardous waste in Subpart D of 35 Ill. Adm. Code 721.

* * *

- c) For purposes of compliance with 35 Ill. Adm. Code 728, or if the waste is not listed as a hazardous waste in Subpart D of 35 Ill. Adm. Code 721, the generator must then determine whether the waste is identified in Subpart C of 35 Ill. Adm. Code 721 by either of the following methods:
 - 1) Testing the waste according to the methods set forth in Subpart C of 35 Ill. Adm. Code 721, or according to an equivalent method approved by the Board under 35 Ill. Adm. Code 720.121; or
 - 2) Applying knowledge of the hazard characteristic of the waste in light of the materials or processes used.
- d) If the generator determines that the waste is hazardous, the generator must refer to 35 Ill. Adm. Code 724 through 728, 733, and 739 for possible exclusions or restrictions pertaining to the management of the specific waste.

19. The Metal Grinding Waste generated by WCC at the Site was disposed of, and is a "solid waste" as that term defined in Section 721.102 of the Hazardous Board Waste regulations, 35 Ill. Adm. Code 721.102. WCC is a 'generator of solid waste'.

20. As a generator of a solid waste, WCC was required to determine whether the Metal Grinding Waste generated at the Site was a hazardous waste, using the procedure outlined in Section 722.111 of the Board Hazardous Waste Regulations, 35 Ill. Adm. Code 722.111.

21. By failing to test and/or evaluate the Metal Grinding Waste to determine whether it was a hazardous waste, WCC violated Section 722.111 of the Board Hazardous Waste

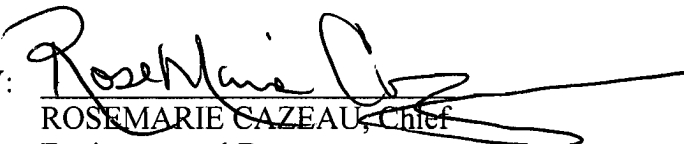
regulations, 35 Ill. Adm. Code 722.111, and thereby also violated Section 21(f) of the Act, 415 ILCS 5/21(f) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against the Respondent, WAHL CLIPPER CORPORATION, on Count V:

1. Authorizing a hearing in this matter, at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated Section 21(f) of the Act and 35 Ill. Adm. Code 722.111;
3. Ordering the Respondent to cease and desist from any further violation of Section 21(f) of the Act and 35 Ill. Adm. Code 722.111;
4. Assessing against the Respondent a civil penalty of Twenty Five Thousand Dollars (\$25,000.00) for each day of violation of Section 21(f) of the Act and 35 Ill. Adm. Code 722.111;
5. Ordering the Respondent to pay all costs, 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: 
ROSEMARIE CAZEAU, Chief
Environmental Bureau
Assistant Attorney General

OF COUNSEL:

CHRISTOPHER GRANT

Assistant Attorney General

Environmental Bureau

69 W. Washington Street, #1800

Chicago, IL 60602

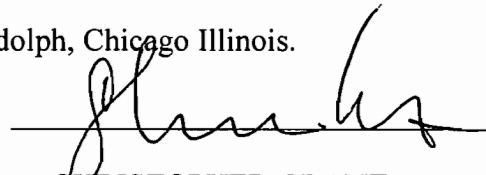
(312) 814-3532

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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Complainant,)	
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-vs-)	PCB No.
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WAHL CLIPPER CORPORATION,)	
an Illinois corporation,)	
)	
Respondent.)	

CERTIFICATE OF SERVICE

I, CHRISTOPHER GRANT, an attorney, do certify that I caused to be served this 14th day of November, 2011, the foregoing Complaint and Notice of Filing, upon the persons listed below by first class mail, by placing same in an envelope bearing sufficient postage with the United States Postal Service located at 100 W. Randolph, Chicago Illinois.



CHRISTOPHER GRANT

Service List:

Mr. John Therriault, Assistant Clerk
Illinois Pollution Control Board
100 W. Randolph, Chicago, Illinois 60601 (by electronic filing)

Mr. Bradley P. Halloran, Hearing Officer
Illinois Pollution Control Board
100 W. Randolph, Chicago, Illinois 60601 (by hand delivery)

Mr. Scott C. Sullivan
Attorney at Law
Williams McCarthy LLP
P.O. Box 219
120 W. State Street
Rockford, Illinois 61105-0219
Attorney for Respondent