

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

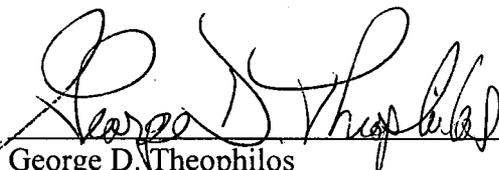
<b>PEOPLE OF THE STATE OF ILLINOIS,</b>	)	
	)	
<b>Complainant,</b>	)	
	)	
<b>vs.</b>	)	<b>No. PCB _____</b>
	)	<b>(Enforcement)</b>
	)	
<b>S.H. Bell Co., Inc., a Pennsylvania corporation</b>	)	
	)	
<b>Respondent.</b>	)	

**NOTICE OF FILING**

To: See attached Service List

PLEASE TAKE NOTICE that on the 30th day of March, 2012, the People of the State of Illinois, filed with the Illinois Pollution Control Board, a COMPLAINT, true and correct copies of which are attached hereto and is hereby served upon you.

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

By: 

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George D. Theophilos  
Assistant Attorney General  
Environmental Bureau  
69 West Washington Street, 18<sup>th</sup> Fl.  
Chicago, IL 60602  
(312) 814-6986  
gtheophilos@atg.state.il.us

DATE: March 30, 2012

**THIS FILING IS SUBMITTED ON RECYCLED PAPER**

**SERVICE LIST**

Mr. Bradley Halloran  
Hearing Officer  
Illinois Pollution Control Board  
James R. Thompson Center, Suite 11-500  
Chicago, IL 60601  
halloranb@ipcb.state.il.us]

Ms. Erin W. McDowell  
Counsel for Respondent  
Eckert Seamans Cherin & Mellott, L.L.C.  
U.S. Steel Tower  
600 Grant Street, 44<sup>th</sup> Floor  
Pittsburgh, PA 15219

Ms. Maureen Wozniak, Esq.  
Assistant Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276  
maureen.wozniak@illinois.gov

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

<b>PEOPLE OF THE STATE OF ILLINOIS</b>	)	
<i>ex rel.</i> <b>LISA MADIGAN, Attorney</b>	)	
<b>General of the State of Illinois,</b>	)	
	)	
<b>Complainant,</b>	)	
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<b>vs.</b>	)	<b>No.</b>
	)	
	)	
<b>S.H. Bell Co., a Pennsylvania corporation,</b>	)	
	)	
<b>Respondent.</b>	)	

**COMPLAINT FOR CIVIL PENALTIES**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent,, S.H. Bell Co (“Bell”) as follows:

**COUNT I**

**OPERATING WITHOUT A CAAPP 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”).

2. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/4 (2010).

3. This complaint is brought pursuant to Sections 42(d) and (e) of the Act, 415 ILCS 5/42(d) and (e) (2010), and is an action to restrain ongoing violations of the Act and for civil penalties.

4. At all times relevant to this Complaint, Respondent, S.H. Bell Co. (“Bell”), a Pennsylvania corporation registered to conduct business in Illinois, has operated a materials

handling facility located at 10218 South Avenue O, Chicago, Cook County, Illinois 60617. (“Source”).

5. On April 10, 2006, the Illinois EPA issued to Respondent, Federally Enforceable State Operating Permit (“FESOP”) number 83020023 (“2006 FESOP”), attached as Exhibit A, hereto. The expiration date of the 2006 FESOP was October 19, 2006.

6. The 2006 FESOP stated that the permit was granted to operate emission units and/or pollution control equipment consisting of a jaw crusher/screener; a portable conveyor controlled by dust collector; bag filling operation controlled by dust collector; box filling operation controlled by dust collector; and fugitive emission sources including storage piles and unpaved roads.

7. On April 20, 2006, Respondent submitted an application for renewal of operating permit to the Illinois EPA. On May 10, 2006, the Illinois EPA issued a Notice of Incompleteness to Respondent (Exhibit B, hereto) because the renewal application lacked information on the use of enclosures and control devices, sources of fugitive emissions, emissions factors, and capture and control efficiencies. Respondent did not respond to the Notice of Incompleteness and the 2006 FESOP expired on October 19, 2006.

8. Section 3.315 of the Act, 415 ILCS 5/3.315 (2010), provides the following definition:

“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.

9. Respondent is a person as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2010).

10. Section 39.5(6) of the Act, 415 ILCS 5/39.5(6) (2010), provides as follows:

Prohibitions

- a. It shall be unlawful for any person to violate any terms or conditions of a permit issued under this Section, to operate any CAAPP source except in compliance with a permit issued by the Agency under this Section or to violate any other applicable requirements.

\* \* \*

- b. After the applicable CAAPP permit or renewal application submittal date, as specified in subsection 5 of this Section, no person shall operate a CAAPP source without a CAAPP permit unless the complete CAAPP permit or renewal application for such source has been timely submitted to the Agency.

11. Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (2010), provides the following definitions:

“CAAPP” means the Clean Air Act Permit Program, developed pursuant to Title V of the Clean Air Act.

\* \* \*

“CAAPP Permit” means any permit issued, renewed, amended, modified or revised pursuant to Title V of the Clean Air Act.

“CAAPP source” means any source for which the owner or operator is required to obtain a CAAPP permit pursuant to subsection 2 of this Section.

\* \* \*

“Owner or operator” means any person who owns, leases, operates, controls, or supervises a stationary source.

12. The Source is subject to the CAAPP permit requirements prescribed by the Act and Respondent, an owner or operator of a CAAPP source, obtained its 2006 FESOP pursuant to permit requirements set forth in Section 39.5 of the Act, 415 ILCS 5/39.5 (2010).

13. Sections 39.5(5)(n) and (o) of the Act, 415 ILCS 5/39.5(5)(n) and (o) (2010), provide as follows:

- n. For purposes of permit renewal, a timely application is one that is submitted no less than 9 months prior to the date of permit expiration.
- o. The terms and conditions of a CAAPP permit shall remain in effect until the issuance of a CAAPP renewal permit provided a timely and complete CAAPP application has been submitted.

14. Pursuant to 415 ILCS 5/39.5(n), Respondent was required to submit a complete and accurate CAAPP permit renewal application no later than January 19, 2006, nine months prior to the expiration of its 2006 FESOP.

15. On July 7, 2010, the Illinois EPA conducted an inspection of the Source and found that the Respondent was operating emission units without the requisite permit.

16. On December 28, 2010, the Illinois EPA issued Violation Notice (VN) A-2010-00120 to Respondent for its failure to timely renew its FESOP, resulting in the operation of a major source without the requisite Clean Air Act Permit Program ("CAAPP") permit.

17. On February 1, 2011, the Illinois EPA received Respondent's application for FESOP, approximately 5 years after the prescribed time period for the submission of a CAAPP permit renewal application.

18. By failing to timely submit its CAAPP permit renewal application, Respondent operated without the benefit of a CAAPP permit shield authorized by 415 ILCS 39.5(5)(1) (2010). Accordingly, Respondent failed to timely obtain from the Illinois EPA the requisite CAAPP permit, prior to October 19, 2006, and now operates a CAAPP Source unpermitted.

19. By operating a CAAPP source without a CAAPP permit, Respondent violated and continues to violate Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b) (2010).

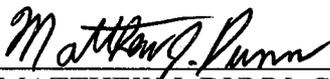
WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter a judgment in favor of Complainant and against the Respondent, S.H. BELL Co, on this Count I:

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 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b) (2010);
3. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent Board Air Pollution Regulations, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
4. Taxing all costs in this action pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f), including attorney, expert witness and consultant fees, against the Respondent; and
5. Granting such other relief as the Board deems appropriate and just.

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: \_\_\_\_\_

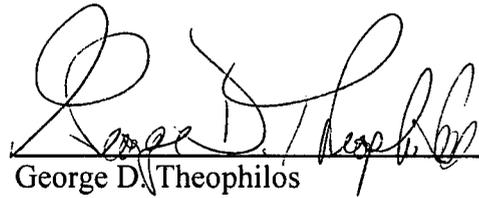
  
MATTHEW J. DUNN, Chief  
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Of Counsel:

George D. Theophilos  
Assistant Attorney General  
Environmental Bureau  
69 W. Washington St., 18th Floor  
Chicago, Illinois 60602  
(312) 814-6986

**CERTIFICATE OF SERVICE**

I, George D. Theophilos, an Assistant Attorney General, do certify that I caused the foregoing COMPLAINT to be electronically mailed to the persons listed on the attached Service List on this the 30th day of March, 2012

  
George D. Theophilos