

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.)
)
TROY CARTER,)
)
Respondent.)

PCB No. 13-1
(Enforcement - Land)

NOTICE OF ELECTRONIC FILING

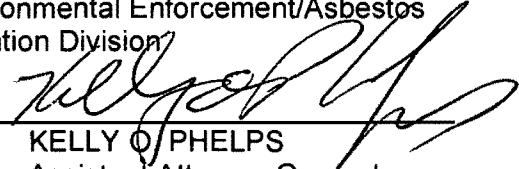
To: See Attached Service List

PLEASE TAKE NOTICE that on November 21, 2012, I electronically filed with the Clerk of the Pollution Control Board of the State of Illinois, c/o John T. Therriault, Assistant Clerk, James R. Thompson Center, 100 W. Randolph St., Ste. 11-500, Chicago, IL 60601, a MOTION to the hearing officer to deem complaint allegations be taken as admitted pursuant to Ill. Adm. Code 103.204(d) and a NOTICE OF HEARING, 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: 
KELLY O'PHELPS
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, IL 62706
(217) 782-9031
Date: November 21, 2012

CERTIFICATE OF SERVICE

I hereby certify that I did on November 21, 2012, cause to be served by First Class Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box in Springfield, Illinois, a true and correct copy of the following instruments entitled NOTICE OF ELECTRONIC FILING, MOTION TO THE HEARING OFFICER TO DEEM COMPLAINT ALLEGATIONS BE TAKEN AS ADMITTED PURSUANT TO ILL. ADM. CODE 103.204(d) and NOTICE OF HEARING upon the persons listed on the Service List.


KELLY O. PHELPS
Assistant Attorney General

This filing is submitted on recycled paper.

SERVICE LIST

Carol Webb
Hearing Officer
1021 North Grand Avenue East
P.O. Box 19274
Springfield, IL 62794-9274

TROY CARTER
#1 Glenwood Acres #34
Salem, IL 62881

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
MARION COUNTY, ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 vs.) PCB No. 13-1
)
 TROY CARTER,)
)
 Respondent.)

NOTICE OF HEARING

PLEASE TAKE NOTICE that the Complainant's MOTION TO THE HEARING OFFICER TO DEEM COMPLAINT ALLEGATIONS BE TAKEN AS ADMITTED PURSUANT TO ILL. ADM. CODE 103.204(d) will be heard during the telephone status conference with Hearing Officer Webb on January 22, 2013 at 11:30 a.m.

Respectfully Submitted,

Illinois Environmental Protection Agency
ex rel. LISA MADIGAN,
Attorney General
Of the State of Illinois

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

By: _____


KELLY O. PHELPS
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, IL 62706
(217) 782-9031
Dated: November 21, 2012

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

MARION COUNTY ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.) PCB No. 13-1
) (Land-Enforcement)
 TROY CARTER,)
)
 Respondent.)

**MOTION TO THE HEARING OFFICER TO DEEM COMPLAINT ALLEGATIONS BE
TAKEN AS ADMITTED PURSUANT TO ILL. ADM. CODE 103.204(d)**

The PEOPLE OF THE STATE OF ILLINOIS, by their attorney, LISA MADIGAN, Attorney General of the State of Illinois, request that the Hearing Officer, in accordance with authority granted under Section 101.502(a) of the Board's regulations, 35 Ill. Adm. Code 101.502, deem all material allegations in the Complaint relating to Respondent, TROY CARTER, be taken as admitted by operation of law, pursuant to Board rule 35 Ill. Adm. Code 103.204, and in support thereof state:

1. The Hearing Officer has the authority to rule on all motions that are not dispositive of the proceeding pursuant to Section 101.502(a) of the Board's regulations, 35 Ill. Adm. Code 101.502(a).
2. Sections 103.204(d) and (e) of the Board's regulations, 35 Ill. Adm. Code 103.204(d) and (e) state as follows:

d) Except as provided in subsection (e) of this Section, the respondent may file an answer within 60 days after receipt of the complaint if respondent wants to deny any allegations in the complaint. All material allegations of the complaint will be taken as admitted if no answer is filed or if not specifically denied by the answer, unless respondent asserts a lack of knowledge sufficient to form a belief. Any facts constituting an affirmative defense must be plainly set forth before hearing

in the answer or in a supplemental answer, unless the affirmative defense could not have been known before hearing.

e) If the respondent timely files a motion under Section 103.212(b) or 35 Ill. Adm. Code 101.506, the 60-day period to file an answer described in subsection (d) of this Section will be stayed. The stay will begin when the motion is filed and end when the Board disposes of the motion.

3. The People filed their Complaint with the Clerk on July 2, 2012.
4. Notice of Electronic Filing and the Complaint were properly served on the Respondent by certified mail and signed receipt as proof of service on Respondent was received by the Clerk on July 11, 2012. The Notice which is part of the record included the language required by Section 103.204(f) of the Board's rules, 35 Ill. Adm. Code 103.204(f) which specifically admonished Respondent that failure to answer the Complaint within 60 days would mean that all allegations in the Complaint would be taken as if admitted.
5. On July 17, 2012, Hearing Officer, Carol Webb ordered a status conference be held on August 13, 2012, at 10:30 A.M., which was held and in which Respondent participated *pro se*.
6. On September 18, 2012, a second status conference was held and again Respondent participated *pro se*.
7. As of the date of the filing of this Motion no attorney has entered an appearance on behalf of Respondent.
8. More than 60 days have elapsed since Respondent has received the Complaint and Respondent has failed to answer the Complaint or otherwise file a motion as required by Sections 103.204(d) and (e) of the Board's regulations, 35 Ill. Adm. Code 103.204(d) and (e).

WHEREFORE, the PEOPLE OF THE STATE OF ILLINOIS pray that the Hearing Officer deem the material allegations in the Complaint be admitted by operation of law pursuant to Section 103.204(d) of the Board's rules, 35 Ill. Adm. Code 103.204(d).

Respectfully Submitted,

Illinois Environmental Protection Agency
Ex rel. LISA MADIGAN,
Attorney General
of the State of Illinois

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

By: 

KELLY O. PHELPS
Assistant Attorney General
Environmental Bureau

Attorney Reg. No. 6275697
500 South Second Street
Springfield, Illinois 62706
(217) 782-9031
Dated: November 19, 2012