

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
by LISA MADIGAN, Attorney)	
General of the State of Illinois,)	
)	
Complainant,)	
)	
v.)	PCB No. 14-114
)	(Enforcement – Air)
HENDRICKSON BUMPER & TRIM,)	
an Illinois Corporation,)	
)	
Respondent.)	

NOTICE OF FILING

To: Sean Coleman
Hendrickson Bumper & Trim
501 Canton Farm Road
Crest Hill, Illinois 60435

PLEASE TAKE NOTICE that today, April 14, 2014, I filed with the Office of the Clerk of the Illinois Pollution Control Board for filing, Complainant's Motion for Leave to File First Amended Complaint, *Instantly*, a copy of which is attached hereto and hereby served on you.

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

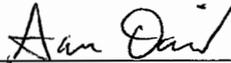
Date: April 14, 2014

By: Sammy David
SAMMY DAVID
Assistant Attorney General
Environmental Bureau
69 W. Washington St., Suite 1800.
Chicago, Illinois 60602
(312) 814-3816

THIS FILING IS SUBMITTED ON RECYCLED PAPER

CERTIFICATE OF SERVICE

I, SAMMY DAVID, an Assistant Attorney General, do certify that on April 14, 2014, I caused to be served, the attached Notice of Filing and Complainant's Motion for Leave to File an Amended Complaint, *Instanter*, upon the person listed on said Notice, by placing a true and correct copy in an envelope, first class postage prepaid, and depositing same with the United States Postal Service at 100 West Randolph Street, Chicago, Illinois, at or before the hour of 5:00 p.m.



SAMMY DAVID

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MOTION FOR LEAVE TO FILE FIRST AMENDED COMPLAINT, *Instante*

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* LISA MADIGAN, Attorney General of the State of Illinois, and moves the Board for leave to file its First Amended Complaint, *Instante*. In support thereof, Complainant states as follows:

1. On March 7, 2014, Complainant filed a Complaint 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 EPA, pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2012).

2. The Complaint alleged that the Respondent failed to timely submit its Annual Emissions Report (“AER”) in violation of Section 254.132(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a), and Section 201.302(a) of the Illinois Pollution Control Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a).

3. On March 25, 2014, the Illinois Pollution Control Board entered an order setting a telephonic status conference with the hearing officer on April 10, 2014 at 9:30 a.m.

4. Subsequent to filing the Complaint, Complainant received information indicating that Hendrickson USA, L.L.C. (“Hendrickson USA”) is the proper entity against whom

Complainant's claims are asserted, and that Hendrickson Bumper & Trim is a division of the legal entity.

5. Complainant proposes to file an Amended Complainant and to change the name of the Respondent from Hendrickson Bumper & Trim to Hendrickson USA, L.L.C., a Delaware corporation.

6. The proposed correction would revise the caption by changing the name of the Respondent to Hendrickson USA, L.L.C., a Delaware corporation.

7. The proposed correction also makes corresponding changes to the body of the Complaint, so as to correctly identify Hendrickson USA as the Respondent.

8. The proposed correction changes paragraph 4 of the Complaint to allege that Hendrickson USA, the Respondent, operates Hendrickson Bumper & Trim, an automotive parts manufacturing facility.

9. Section 2-616(a) of the Illinois Code of Civil Procedure, 735 ILCS 5/2-616(a) (2012), provides, in pertinent part, as follows:

Sec. 2-616. Amendments.

- (a) At any time before final judgment amendments may be allowed on just and reasonable terms, introducing any party who ought to have been joined as plaintiff or defendant, dismissing any party, changing the cause of action or defense or adding new causes of action or defenses, and in any matter, either of form or substance, in any process, pleading, bill of particulars or proceedings, which may enable the plaintiff to sustain the claim for which it was intended to be brought or the defendant to make a defense or assert a cross claim.

10. Section 101.500 of the Pollution Control Board Regulations, 35 Ill. Adm. Code 101.500, provides as follows:

Section 101.500 Filing of Motions and Responses

- (a) The Board may entertain any motion the parties wish to file that is permissible under the Act or other applicable law, these rules, or the Illinois Code of Civil Procedure.

11. Section 2-401(b) of the Illinois Code of Civil Procedure, 735 ILCS 5/2-401(b) (2012), provides as follows:

Sec. 2-401. Designation of Parties - Misnomer

- (b) Misnomer of a party is not a ground for dismissal but the name of any party may be corrected at any time, before or after judgment, on motion, upon any terms and proof that the court requires.

12. This motion seeks to correct the Respondent's name, as allowed by Section 2-401(b) of the Illinois code of Civil Procedure, 735 ILCS 5/2-401(b) (2012), and Section 101.500 of the Pollution Control Board Regulations, 35 Ill. Adm. Code 101.500.

13. A proposed First Amended Complaint ("Amended Complaint") is attached hereto and incorporated herein as Exhibit A.

14. The Respondent will not be prejudiced in any way by allowing this correction.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board grant its motion and to deem its First Amended Complaint to be filed *instanter*.

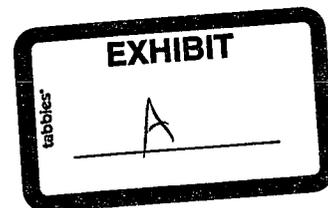
PEOPLE OF THE STATE OF ILLINOIS,
ex rel. Lisa Madigan, Attorney General
of the State of Illinois

By: Sam David
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
 by LISA MADIGAN, Attorney)
 General of the State of Illinois,)
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 Complainant,)
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 v.)
)
 HENDRICKSON USA, L.L.C.,)
 a Delaware corporation,)
)
 Respondent.)



PCB 14-114
 (Enforcement – Air)

FIRST AMENDED COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, HENDRICKSON USA, L.L.C., a Delaware corporation, as follows:

COUNT I
FAILURE TO SUBMIT ANNUAL EMISSIONS REPORT

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 (2012).

2. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2012), and charged, *inter alia*, with the duty of enforcing the Act.

3. At all times relevant to this Complaint, Respondent, HENDRICKSON USA, L.L.C. (“Hendrickson USA”) was and is a Delaware corporation, duly authorized to do business in the State of Illinois.

4. At all times relevant to this Complaint, Respondent HENDRICKSON USA has operated Hendrickson Bumper & Trim, an automotive parts manufacturing facility located at 501 Caton Farm Road, Crest Hill, Will County, Illinois ("Facility").

5. Emission units at the Facility include five (5) stamping presses, manual clean up operations, four (4) cold cleaning degreasers, and a spray paint booth with dry paint filters and a curing oven. The emission units emit, or are capable of emitting, volatile organic material ("VOM") into the environment.

6. Respondent's operation of the Facility is subject to the Act and the rules and regulations promulgated by the Illinois Pollution Control Board ("Board") and the Illinois EPA. The Board's regulations to control air pollution in Illinois are found in title 35, Subtitle B, Chapter I of the Illinois Administrative Code ("Board Air Pollution Regulations"). The Illinois EPA's regulations to control air pollution in Illinois are found in Title 35, Subtitle B, Chapter II of the Illinois Administrative Code ("Illinois EPA Air Pollution Regulations").

7. Section 9(a) of the Act, 415 ILCS 5/9(a) (2012), provides as follows:

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.

8. Section 3.315 of the Act, 415 ILCS 5/3.315 (2012), 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. Hendrickson USA is a "person" as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2012).

10. Section 3.165 of the Act, 415 ILCS 5/3.165 (2012), provides the following definition:

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

11. VOM is a "contaminant" as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2012).

12. Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), provides as follows:

- (a) The owner or operator of any emission unit or air pollution control equipment shall submit to the Agency as a minimum, annual reports detailing the nature, specific source and total annual quantities of all specified air contaminant emissions, provided, however, that the Agency may require more frequent reports where necessary to accomplish the purposes of the Act and this Chapter.

13. Section 211.1950 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.1950, provides the following definition:

"Emission unit" means any part or activity at a stationary source that emits or has the potential to emit any air pollutant.

14. Section 211.6370 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.6370, provides the following definition:

"Stationary source" means any building, structure, facility, or installation that emits or may emit any air pollutant.

15. Section 211.370 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.370, provides the following definition:

"Air pollutant" means an air pollution agent or combination of such agents, including any physical, chemical, biological, radioactive

(including source material, special nuclear material and byproduct material) substance or matter which is emitted into or otherwise enters the atmosphere. Such term includes any precursors to the formation of any air pollutant, to the extent that the relevant statute or rule has identified such precursor or precursors for particular purpose for which the term "air pollutant" is used.

16. The equipment described in paragraph 5, above, constitutes parts or activities at a "stationary source", as that term is defined in Section 211.6370 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.6370, that emits an "air pollutant" in the form of VOM.

17. Respondent's stamping presses, manual clean up operations, cold cleaning degreasers, and a spray paint booth with dry paint filters and curing oven are all "emission units" as that term is defined in Section 211.1950 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.1950.

18. Section 211.4370 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.4370, provides the following definition:

"Owner or operator" means any person who owns, operates, leases, controls, or supervises a source, an emission unit or air pollution control equipment.

19. Respondent is the "owner or operator" of the emission units as that term is defined in Section 211.4370 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.4370.

20. As the owner or operator of emission units, Respondent is required to submit annual emissions reports to the Illinois EPA.

21. Section 254.132(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a), provides as follows:

Failure to file a complete Annual Emissions Report by the applicable deadlines prescribed in Section 254.137(a) of this Subpart shall be a violation of this Part and 35 Ill. Adm. Code 201.302(a).

22. Section 254.137(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm.

Code 254.137(a), provides as follows:

(a) All Annual Emissions Reports are due by May 1 of the year following the calendar year in which the emissions took place.

23. On or around July 19, 2013, approximately 80 days after it was due, Respondent submitted its Annual Emissions Report ("AER") for the calendar year 2012 to the Illinois EPA.

24. Respondent failed to timely submit an AER for the calendar year 2012, in violation of Section 254.137(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.137(a), thereby violating Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a).

25. By violating Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), Respondent violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2012).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, HENDRICKSON USA, L.L.C., 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 9(a) of the Act, 415 ILCS 5/9(a) (2012), Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Section 254.137(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.137(a);

3. Ordering the Respondent to cease and desist from future violations of Section 9(a)

of the Act, 415 ILCS 5/9(a) (2012), Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Section 254.137(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.137(a);

4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against the Respondent for each violation of the Act and regulations, and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Ordering the Respondent to pay all costs, pursuant to Section 42(f) of the Act, 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,
ex rel. LISA MADIGAN, Attorney General
of the State of Illinois

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

By:



ELIZABETH WALLACE, Chief
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