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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

MAY 22 2003

STATE OF ILLINOIS  
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS, )  
 )  
Complainant, )  
 )  
vs. )  
 )  
ECONOMY PLATING, INC., an Illinois )  
corporation, )  
 )  
Respondent. )

PCB 97-69  
(Enforcement - Air)

NOTICE OF FILING

TO: Mr. Christopher Nowotarski      Bradley P. Halloran  
Stone, Poggrund & Korey      Hearing Officer  
221 North LaSalle Street      Illinois Pollution Control  
32nd Floor      Board  
Chicago, Illinois 60601      100 W. Randolph St.  
Suite 11-500  
Chicago, Illinois 60601

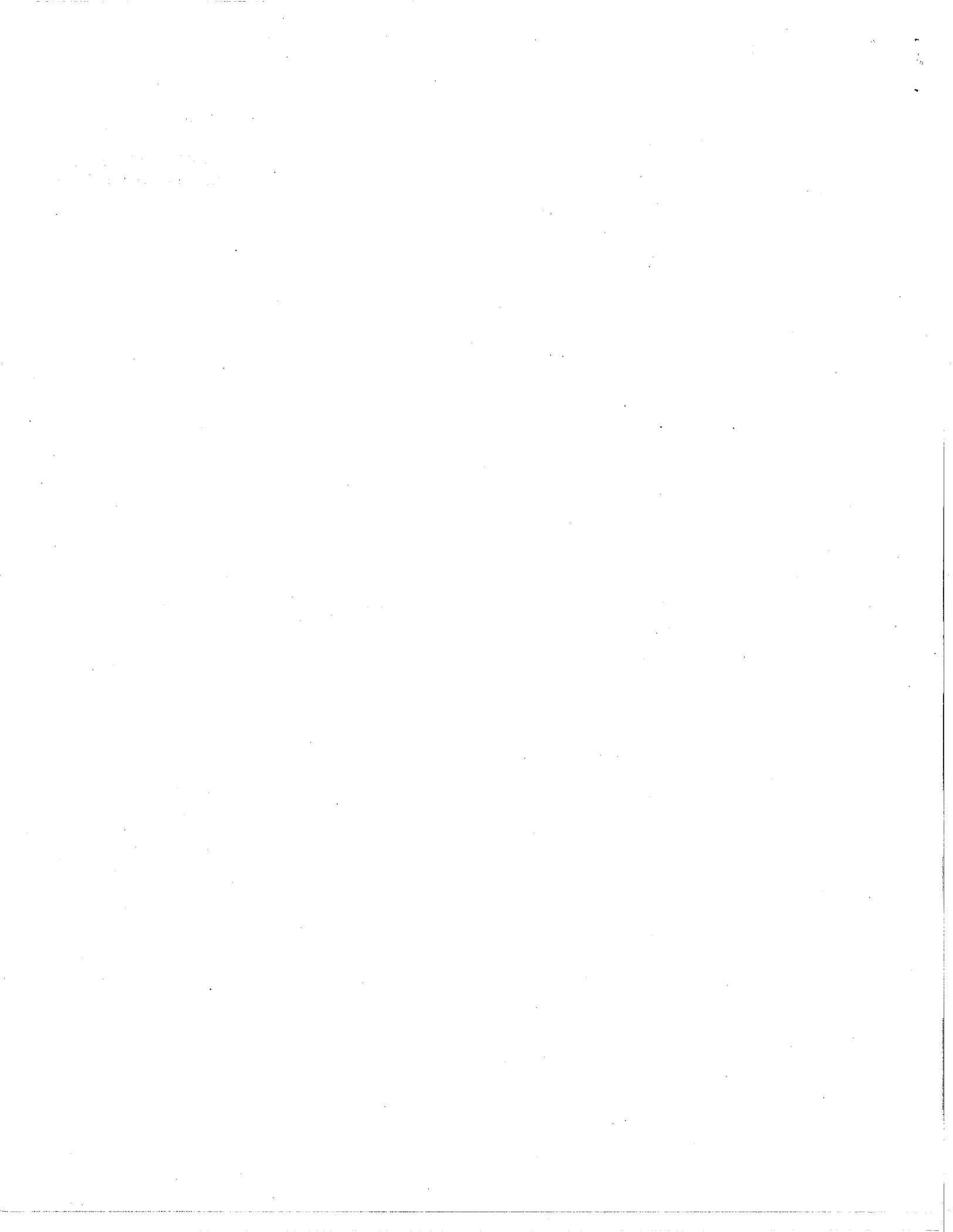
PLEASE TAKE NOTICE that the Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, filed with the Illinois Pollution Control Board, its MOTION TO DEEM FACTS ADMITTED, a true and correct copy of which is attached hereto and is hereby served upon you.

PEOPLE OF THE STATE OF ILLINOIS  
LISA MADIGAN  
Attorney General  
State of Illinois

BY: Xsmutun Bereket-AB  
ZEMEHERET BEREKET-AB  
Assistant Attorney General  
Environmental Bureau  
188 West Randolph, 20th Floor  
Chicago, IL 60601  
(312) 814-3816

DATED: May 22, 2003

THIS FILING IS SUBMITTED ON RECYCLED PAPER





CFR 63.342(c)(1)(ii), 40 CFR 63.343 (b)(1), and 40 CFR 63.346(b)(1) and (8), and Special Operating Permit Conditions 1(b)(c) and (h) and 5(a through i) of operation permit #73031926.

2. The Second Amended Complaint in this matter differed from the original complaint only in that Complainant added Counts IV and V to the original Complaint.

3. The Notice of Filing for the Second Amended Complaint specifically stated:

"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."

4. Section 103.204(d) and (e) of the Board Rules provides 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.

5. The Board in accepting Complainant's November 14, 2002, Amended Complaint for hearing issued an order stating:

"Generally, if Economy fails within that time frame to file an answer specifically denying, or asserting insufficient knowledge to form a belief of a material allegation in the Complaint, the Board will consider Economy to have admitted the allegation..."

6. To date, Respondent has not filed an answer to the August 14, 2002, amended Complaint.

7. To date, Respondent has not filed a motion under Section 101.506 to stay the 60-day period in which to file an answer.

8. Section 103.204(d) of the Board Rules and the Board order of November 21, 2002, state that all material allegations will be taken as admitted if no answer is filed within the time frame set in the Board Rules.

9. By failing to answer Complainant's Second Amended Complaint by February 21, 2003, (being very generous), by failing to file a motion to stay the 60-day period in which to file an answer as required by Section 103.204(e) of 35 Ill. Adm. Code 103.204(e), and by failing to comply with the Board's November 21, 2002 order, Respondent has admitted all the material allegations asserted in Complainant's Second Amended Complaint.

10. Complainant therefore requests that the Board find, pursuant to Section 103.204(d) of 35 Ill. Adm. Code 103.204(d),

that Respondent has admitted all material allegations asserted in Complainant's Second Amended Complaint.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board issue an order in favor of Complainant and against Respondent Economy Plating, Inc. :

1. Ordering all material allegations asserted in the Complainant's Second Amended Complaint admitted against Economy Plating, Inc.

2. Granting such additional relief as the Board deems appropriate and just.

PEOPLE OF THE STATE OF ILLINOIS  
LISA MADIGAN, Attorney General  
State of Illinois

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

ROSEMARIE CAZEAU, Chief  
Environmental Bureau

BY:



ZEMEHERET BEREKET-AB  
Assistant Attorney General  
Environmental Bureau  
188 W. Randolph St., 20th Flr.  
Chicago, Illinois 60601  
(312) 814-3816

CERTIFICATE OF SERVICE

I, ZEMEHERET BEREKET-AB, an Assistant Attorney General, do certify that I caused to be mailed this 22nd day of May, 2003, the foregoing MOTION TO DEEM FACTS ADMITTED and NOTICE OF FILING by first-class mail in a postage prepaid envelope and depositing same with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois 60601.



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ZEMEHERET BEREKET-AB

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