

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB NO. 11-42
)	(Enforcement-Land)
)	
JOEL A. MOSKE, d/b/a U.S. SCRAP,)	
)	
Respondent.)	

NOTICE OF ELECTRONIC FILING

PLEASE TAKE NOTICE that on April 17, 2014, 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 the MOTION FOR PENALTY DETERMINATION AND FINAL ORDER, a copy of which is 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: s/Raymond J. Callery
RAYMOND J. CALLERY
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031

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PEOPLE OF THE STATE OF ILLINOIS,)	
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Complainant,)	
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)	(Enforcement - Land)
JOEL A. MOSKE, d/b/a U.S. SCRAP,)	
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MOTION FOR PENALTY DETERMINATION AND FINAL ORDER

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, hereby moves for a penalty determination and final order as to Count I and Count II of its Complaint against the Respondent, JOEL A. MOSKE, d/b/a U.S. SCRAP, and states as follows:

1. Complainant filed its three count complaint against the Respondent on January 19, 2011.
2. On January 9, 2014, Complainant filed its Motion for Summary Judgment against the Respondent.
3. On February 20, 2014, the Board granted Complainant's Motion for Summary Judgment as to the first two counts of the Complaint, Count I (Land Pollution Violations) and Count II (Air Pollution Violations).
4. The Board denied Complainant's Motion for Summary Judgment as to Count III of the Complaint (Waste Determination Violations).
5. The Board reserved making a penalty determination pending a hearing on Count III.

6. Complainant no longer wishes to proceed to hearing on Count III of the Complaint and has filed a motion to voluntarily dismiss that count.

7. In Section VII of Complainant's January 9, 2014 Motion for Summary Judgment, Complainant fully addressed the factors under both Section 33(c) of the Act, 415 ILCS 5/33(c) (2012), and Section 42(h) of the Act, 415 ILCS 5/42(h) (2012).

8. Regarding 42(h)(4) (appropriate penalty), violations were noted at the Site from February 21, 2007 through at least February 22, 2012, a period of over eighteen hundred (1,800) days. The Illinois EPA conducted a number of inspections of the Site that resulted in administrative citations and violation notices even before the February 21, 2007 inspection. The six violations the Board has previously found under Count I and Count II, considering the length of time the violations continued, make a penalty in the amount of Eight Thousand Dollars (\$8,000) appropriate.

9. In addition to penalty, Complainant's Motion for Summary Judgment also requested that Respondent be ordered to remove any remaining waste material from the Site and properly dispose of it and that Respondent be ordered to cease and desist from any future violations of the Act and associated regulations.

WHEREFORE, Complainant, People of the State of Illinois, respectfully requests that the Board enter a final order:

A. Ordering the Respondent to remove any remaining waste material from the Site and properly dispose of it in compliance with the Act and the associated regulations;

B. Ordering the Respondent to cease and desist from any further violations of the Act and associated regulations;

C. Assessing against the Respondent a civil penalty in the amount of \$8,000 pursuant to 42(h) of the Act; and

D. Granting such other and further relief as the Board deems appropriate.

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: s/ Raymond J. Callery
RAYMOND J. CALLERY
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: April 17, 2014

CERTIFICATE OF SERVICE

I hereby certify that I did on April 17, 2014, 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 NOTICE OF ELECTRONIC FILING and MOTION FOR PENALTY DETERMINATION AND FINAL ORDER upon the following:

Joel A. Moske
d/b/a U.S. Scrap
1551 East McBride Street
Decatur, IL 62526

Carol Webb
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
Springfield, IL 62794

s/ Raymond J. Callery
RAYMOND J. CALLERY
Assistant Attorney General

This filing is submitted on recycled paper.