

By: /s/ Molly Kordas
Molly Kordas
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington St., 18th Floor
Chicago, Illinois 60602
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Date: March 17, 2023

Service List

Rick E. Heidner
5277 Trillium Blvd.
Hoffman Estates, IL 60192-3602

James Edward Sayre
370 Bateman Circle North
Barrington, IL 60010

David R. Heidner
294 Wendover Drive
Bloomindale, IL 60108

Parkway Bank & Trust
Land Trust No. 13296
4800 N. Harlem Avenue
Harwood Heights, IL 60706

CERTIFICATE OF SERVICE

I, Molly Kordas, an Assistant Attorney General, certify that on the 17th day of March, 2023, I caused to be served the foregoing Notice of Filing and Complaint on the parties named on the attached Service List by certified mail with return receipt.

/s/ Molly Kordas
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Assistant Attorney General
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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 (2020), and is charged, inter alia, with the duty of enforcing the Act.

3. At all times relevant to this Complaint, Respondent Rick E. Heidner was, and is, a beneficial owner of a gasoline dispensing facility located at 659 West 31st Street, Chicago, Illinois 60616, also known as 3101 South Union Avenue, Chicago, Illinois 60616 (the "Site").

4. At all times relevant to this Complaint, Respondent James Edward Sayre was, and is, a beneficial owner of the Site.

5. At all times relevant to this Complaint, Respondent David R. Heidner was, and is, a beneficial owner of the Site.

6. Respondent Parkway Bank & Trust Company holds legal title to the Site as Trustee under Trust No. 13296.

7. Respondents Rick E. Heidner, James Edward Sayre, and David R. Heidner each hold a beneficial interest in Trust No. 13296, and have the authority to maintain the Site and control access to the Site.

8. As of the date of filing of this Complaint, the Site is located in an area of Environmental Justice ("EJ") concern as identified using Illinois EPA EJ Start.

9. Respondents own gasoline dispensing pumps at the Site that emit volatile organic compounds ("VOCs") into the environment.

10. Section 9(a) of the Act, 415 ILCS 5/9(a) (2020), 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.

11. Section 3.315 of the Act, 415 ILCS 5/3.315 (2020), 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.

12. Respondents Rick E. Heidner, James Edward Sayre, and David R. Heidner, each an individual, and Respondent Parkway Bank & Trust Company, a trustee, are each a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2020).

13. Section 3.165 of the Act, 415 ILCS 5/3.165 (2020), provides the following definition:

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

14. VOCs are “contaminants” as that term is defined by Section 3.165 of the Act, 415 ILCS 5/3.165 (2020).

15. Section 218.586(i)(1)(B) of the Illinois Pollution Control Board (“Board”) Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(1)(B), provides as follows:

No later than December 31, 2016, an owner or operator of a gasoline dispensing operation shall complete the decommissioning of all vapor collection and control systems in accordance with all of the provisions specified in subsection (i)(2).

16. Section 218.586(a)(7) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(a)(7), provides the following definition:

“Gasoline dispensing operation” means any operation where motor vehicle fuel is dispensed into motor vehicle fuel tanks or portable containers from a storage tank with a capacity of 2176 liters (575 gallons) or more.

17. The Site is a “gasoline dispensing operation,” as that term is defined in Section 218.586(a)(7) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(a)(7).

18. Section 218.586(a)(11) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(a)(11), provides the following definition:

“Owner” or “operator” means any person who owns, leases, operates, manages, supervises or controls (directly or indirectly) a gasoline dispensing operation.

19. Respondents are each an “owner” or “operator”, as that term is defined in Section 218.586(a)(11) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(a)(11).

20. Section 218.586(i)(2)(C) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(2)(C), provides as follows:

The owner or operator of a gasoline dispensing operation and the contractors that performed the decommissioning shall complete and sign a decommissioning checklist and certification, provided by the Agency, documenting the decommissioning procedures performed. Within 30 days after completion of the decommissioning procedures specified by subsection (i)(2)(B), the owner or operator shall provide the completed checklist and certification and the test results to the Agency.

21. By December 31, 2016, Respondents were required to decommission the vapor collection and control system in accordance with Section 218.586(i)(1)(B) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(1)(B), and therefore were required to submit a decommissioning checklist, certification, and test results within 30 days after completion of decommissioning procedures, pursuant to Section 218.586(i)(2)(C) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(2)(C).

22. Respondents did not timely submit a decommissioning checklist, certification, or test results to Illinois EPA.

23. By failing to timely submit a decommissioning checklist, certification, and test results to Illinois EPA, Respondents violated Section 218.586(i)(2)(C) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(2)(C).

24. By failing to complete the decommissioning of the Site's vapor collection and control system in accordance with all of the provisions specified in Section 218.586(i)(2) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(2), Respondents thereby violated Section 218.586(i)(1)(B) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(1)(B).

25. By violating Sections 218.586(i)(1)(B) and 218.586(i)(2)(C) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(1)(B) and 218.586(i)(2)(C), Respondents caused or threatened or allowed the discharge or emission of VOCs into the environment so as to violate regulations adopted by the Board, and has thereby violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2020).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against RICK E. HEIDNER, individually, JAMES EDWARD SAYRE, individually, DAVID R. HEIDNER, individually, and PARKWAY BANK & TRUST COMPANY, as Trustee under Trust No. 13296, with respect to Count I:

1. Authorizing a hearing in this matter at which time Respondents will be required to answer the allegations herein;

2. Finding that Respondents have violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2020), and Sections 218.586(i)(1)(B) and 218.586(i)(2)(C) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(1)(B) and 218.586(i)(2)(C);

3. Ordering Respondents to cease and desist from any future violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2020), and Sections 218.586(i)(1)(B) and 218.586(i)(2)(C) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(1)(B) and 218.586(i)(2)(C);
4. Assessing against Respondents a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent regulations, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
5. Taxing all costs in this action, including, but not limited to, attorney, expert witness and consultant fees against Respondents; and
6. Granting such other relief as the Board deems appropriate and just.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS
by KWAME RAOUL, Attorney General
of the State of Illinois

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

BY: /s/ Stephen J. Sylvester
STEPHEN J. SYLVESTER, Chief
Environmental Bureau
Assistant Attorney General

Of Counsel:

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