

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
<i>ex rel.</i> KWAME RAOUL, Attorney)	
General of the State of Illinois,)	
)	
Plaintiff,)	
)	PCB NO. 2024-
v.)	(Enforcement-Water)
)	
REDLINE METALS, INC., an Illinois)	
corporation,)	
)	
Defendant.)	

NOTICE OF FILING

TO: Persons on Attached Service List (VIA ELECTRONIC FILING)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the Complaint, a true and correct copy of which is attached hereto and hereby served upon you. You may be required to answer the charges of the Complaint at a hearing before the Board, at a date set by the Board.

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.

NOTIFICATION - YOU ARE HEREBY NOTIFIED that financing may be available through the Illinois Environmental Facilities Financing Act [20 ILCS 3515/1, et seq.] to correct the alleged violations.

Respectfully submitted,

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

By: /s/ Rebecca Kanz
Rebecca Kanz
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
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Dated: July 28, 2023

SERVICE LIST

Redline Metals, Inc.
c/o Edward P. Burke, Registered Agent
799 Roosevelt Road, Bldg. 6, Suite 108
Glen Ellyn, Illinois 60137

CERTIFICATE OF SERVICE

I, Rebecca Kanz, an Assistant Attorney General, certify that on the 28th day of July, 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.

By: /s/ Rebecca Kanz
Rebecca Kanz
Assistant Attorney General
Environmental Bureau
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
<i>ex rel.</i> KWAME RAOUL, Attorney)	
General of the State of Illinois,)	
)	
Complainant,)	
)	PCB No. 23-
v.)	(Enforcement – Water)
)	
REDLINE METALS, INC., an Illinois)	
corporation,)	
)	
Respondent.)	

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* KWAME RAOUL, Attorney General of the State of Illinois, on his own motion and at the request of the Illinois Environmental Protection Agency, complains of the Respondent, REDLINE METALS, INC., an Illinois corporation, as follows:

COUNT I
FAILURE TO OBTAIN A GENERAL NATIONAL POLLUTANT DISCHARGE
ELIMINATION SYSTEM PERMIT FOR INDUSTRIAL ACTIVITIES

1. This Count is brought on behalf of the People of the State of Illinois, *ex rel.* Kwame Raoul, Attorney General of the State of Illinois, on his 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 (2020).

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. The Illinois EPA is further charged with the duty to abate violations of the National Pollution Discharge Elimination System (“NPDES”) permit program under the Federal Clean Water Act (“CWA”), 33 U.S.C. § 1342(b)(7).

3. At all times relevant to this Complaint, Redline Metals, Inc. (“Respondent”) has been and is an Illinois corporation registered and in good standing with the Illinois Secretary of State’s Office.

4. At all times relevant to this Complaint, Respondent has operated a metal scrapyards facility located at 1255 Gifford Road, Elgin, Kane County, Illinois (“Facility”). Respondent processes non-ferrous metals including, but not limited to, copper, aluminum, brass, stainless steel, and bronze at the Facility.

5. As of the date of filing of this Complaint, the Facility is located in an area of Environmental Justice (“EJ”) concern as identified using Illinois EPA EJ Start.

6. On April 10, 2019, the Illinois EPA inspected the Facility.

7. On April 10, 2019, Respondent managed stormwater by collecting the stormwater in an on-site retention pond and letting it evaporate.

8. On January 25, 2021, the Illinois EPA performed a follow-up inspection of the Facility.

9. On January 25, 2021, the scrap operations at the Facility were performed inside an area of the Facility surrounded by a soil berm (“Operating Area”). The Operating Area has an ingress/egress road located on the South-East portion of the Facility that is not enclosed by the soil berm.

10. On January 25, 2021, Respondent managed stormwater from exposed materials within the Operating Area by collecting the stormwater in a stormwater retention area and pumping it into a storage tank for removal from the Facility.

11. On January 25, 2021, Respondent had a parking lot located on the South-East portion of the Facility and outside of the Operating Area. The parking area slopes in a South-East direction.

12. On January 25, 2021, the parking area contained a 55-gallon drum with oil residue, vehicle batteries, and a vehicle leaking automotive fluids.

13. Stormwater at the Facility is capable of discharging offsite from both the ingress/egress road of the Operating Area located on the South-East portion of the Facility and the parking lot located on the South-East portion of the Facility outside of the Operating Area. These offsite stormwater discharges from the Facility go to the retention pond at the neighboring property owned by Bluff City Materials (“Retention Pond”), which eventually discharges to Bluff Springs Fen Nature Preserve.

14. From at least April 10, 2019, or on a date better known to Respondent, Respondent did not have coverage under a general NPDES permit for storm water discharges associated with industrial activity.

15. From at least April 10, 2019, or on a date better known to Respondent, Respondent did not have a storm water pollution prevention plan (“SWPPP”) for the Facility.

16. To obtain coverage under the NPDES General Stormwater Permit for Industrial Activities (“NPDES Industrial General Permit”), a facility is required to submit to the Illinois EPA a Notice of Intent (“NOI”), a SWPPP, and a permit application fee.

17. Section 12(f) of the Act, 415 ILCS 5/12(f) (2020), provides as follows:

No person shall:

Cause, threaten or allow the discharge of any contaminant into the waters of the State, as defined herein, including but not limited to, waters to any sewage works, or into any well or from any point source within the State, without an NPDES [National Pollution Discharge Elimination System]

permit for point source discharges issued by the Agency under Section 39(b) of this Act, or in violation of any term or condition imposed by such permit, or in violation of any NPDES permit filing requirement established under Section 39(b), or in violation of any regulations adopted by the Board or of any order adopted by the Board with respect to the NPDES program.

18. Section 3.315 of the Act, 415 ILCS 5/3.315 (2020), provides as follows:

“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.

19. Respondent, a corporation, is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2020).

20. Industrial sites are subject to the Act and the rules and regulations promulgated by the Illinois Pollution Control Board (“Board”). The Board’s regulations for water pollution are codified at 35 Ill. Adm. Code, Subtitle C, Chapter 1 (“Board Water Pollution Regulations”).

21. Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a), provides as follows:

Except as in compliance with the provisions of the Act, Board regulations, and the CWA, and the provisions and conditions of the NPDES permit issued to the discharger, the discharge of any contaminant or pollutant by any person into the waters of the State from a point source or into a well shall be unlawful.

22. Section 3.165 of the Act, 515 ILCS 5/3.165 (2020), provides as follows:

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

23. The materials picked up by the stormwater that collects at the Facility, the operating scrap yard containing non-ferrous metals, the 55-gallon drum with oil residue, vehicles batteries, and the automotive fluids from the leaking vehicle, are each a “contaminant” as that term is defined by Section 3.165 of the Act, 415 ILCS 5/3.165 (2020).

24. Section 3.550 of the Act, 415 ILCS 5/3.550 (2020), provides the following definition:

“Waters” means all accumulations of water, surface and underground, natural, and artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon the State.

25. The Retention Pond and Bluff Springs Fen Nature Preserve are each “waters” as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

26. Section 502(14) of the CWA, 33 U.S.C.S. § 1362(14), provides the following definition:

(14) The term “point source” means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include agricultural stormwater discharges and return flows from irrigated agriculture.

27. The Facility is a “point source,” as that term is defined in Section 502(14) of the CWA, 33 U.S.C.S. § 1362(14).

28. The CWA regulates storm water discharges associated with industrial activity and prohibits such point source discharges without an NPDES permit. The United States Environmental Protection Agency (“USEPA”) administers the NPDES program in each State unless the USEPA has delegated authority to do so to that State.

29. The USEPA has authorized the State of Illinois to issue NPDES permits through the Illinois EPA in compliance with federal regulations, including stormwater discharges regulated by 40 CFR §§ 122.26 and 122.32, which require operators to, among other things, obtain a NPDES permit to lawfully discharge stormwater.

30. The USEPA NPDES Regulations require certain categories of point source dischargers to obtain coverage under a general NPDES permit.

31. 40 C.F.R. § 122.26(a)(1)(ii) provides as follows:

(a) Permit requirement.

(1) Prior to October 1, 1994, discharges composed entirely of storm water shall not be required to obtain a NPDES permit except:

* * *

ii. A discharge associated with industrial activity;

32. 40 C.F.R. § 122.26(b)(14)(vi) includes the following definition:

(b) Definitions.

* * *

(14) Storm water discharge associated with industrial activity means the discharge from any conveyance that is used for collecting and conveying storm water The following categories of facilities are considered to be engaging in “industrial activity” for purposes of paragraph (b)(14):

* * *

(vi) Facilities involved in the recycling of materials, including metal scrapyards, battery reclaimers, salvage yards, and automobile junkyards, including but limited to those classified as Standard Industrial Classification 5015 and 5093.

33. Under the standard industrial classification (“SIC”) system utilized by the United States Department of Labor, and referenced by 40 C.F.R. § 122.26(b)(14), Respondent’s metal scrapyard Facility is classified as part of “Major Group 50: Wholesale Trade-durable Goods,” and falls within SIC Code 5093 Scrap and Waste Materials.

34. Respondent, which operates its metal scrapyard Facility classified as SIC Code 5093, conducts “industrial activity” at the Facility as defined in 40 C.F.R. § 122.26(b)(14)(vi).

35. An NPDES permit is required for stormwater discharges associated with industrial activity at the Facility pursuant to 40 C.F.R. § 122.26(a)(1)(ii).

36. As of the date of filing this Complaint, Respondent has not applied for nor been issued an NPDES permit covering its storm water discharges from the Facility.

37. By causing, threatening or allowing the discharge of stormwater associated with industrial activity at the Facility from at least April 10, 2019 through the date of filing of this Complaint, or on a date or dates better known to Respondent, without obtaining coverage under the NPDES General Stormwater Permit for Industrial Activities, Respondent thereby violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2020), and Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, REDLINE METALS, INC., an Illinois corporation, and enter an Order with respect to this Count I, as follows:

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

2. Finding that the Respondent has violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2020), and Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a);

3. Ordering the Respondent to cease and desist from any future violations of Section 12(f) of the Act, 415 ILCS 5/12(f) (2020), and Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a);

4. Assessing against the Respondent, pursuant to Section 42(b)(1) of the Act, 415 ILCS 5/42(b)(1) (2020), a civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation of Section 12(f) of the Act, 415 ILCS 5/12(f) (2020), and Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a);

5. Taxing all costs in this action, including, but not limited to, attorney, expert witness and consultant fees against Respondent; and
6. Granting such other relief as the Board deems appropriate and just.

COUNT II
WATER POLLUTION

1-24. The Complainant re-alleges and incorporates by reference herein paragraphs 1 through 16 and 18 through 25 of Count I as paragraphs 1 through 24 of this Count II.

25. Section 12(a) of the Act, 415 ILCS 5/12(a) (2020), provides as follows:

No person shall:

- (a) Cause or threaten or allow the discharge of any contaminants into the environment in any State so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources, or so as to violate regulations or standards adopted by the Pollution Control Board under this Act.

26. Section 3.545 of the Act, 415 ILCS 5/3.545 (2020), provides the following definition:

“Water pollution” is such alteration of the physical, thermal, chemical, biological or radioactive properties of any waters of the State, or such discharge of any contaminant into any waters of the State, as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

27. The threatened or actual discharge of stormwater from industrial activities at the Facility into Retention Pond and Bluff Springs Fen Nature Preserve was likely to render such waters harmful or detrimental or injurious to (a) public health, safety or welfare; (b) domestic, commercial, industrial, recreational, or other legitimate uses; or (c) wild animals, birds, fish, or other aquatic life, and therefore constitutes “water pollution” as that term is defined in Section 3.545 of the Act, 415 ILCS 5/3.545 (2020).

28. By threatening to discharge contaminants into the Retention Pond and Bluff

Springs Fen Nature Preserve so as to cause or tend to cause water pollution, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

29. By causing, threatening, or allowing the discharge of stormwater from the Facility in violation of Section 309.102(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a), Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, REDLINE METALS, INC., an Illinois corporation, and enter an Order with respect to this Count II, as follows:

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

2. Finding that the Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020), and Section 309.102(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a);

3. Ordering the Respondent to cease and desist from any future violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2020), and Section 309.102(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a);

4. Assessing against the Respondent, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2020), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of each violation;

5. Taxing all costs in this action, including, but not limited to, attorney, expert witness and consultant fees, against Respondent; and

6. Granting such other relief as the Board deems appropriate and just.

PEOPLE OF THE STATE OF ILLINOIS,
ex rel. KWAME RAOUL, Attorney
General of the State of Illinois

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

By: /s/ Stephen J. Sylvester
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