

JUL 08 2004

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)
by LISA MADIGAN, Attorney)
General of the State of Illinois)
)
Complainant,)
)
v.)
)
AARGUS PLASTICS, INC.,)
an Illinois corporation,)
)
Respondent.)

PCB 04-9
(Enforcement - Air)

NOTICE OF FILING

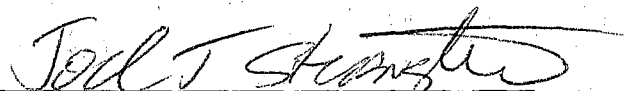
TO: See Attached Service List

PLEASE TAKE NOTICE that on July 8, 2004, the People of the State of Illinois filed with the Illinois Pollution Control Board a Motion for Leave to File Answers to Respondent's Affirmative Defenses and Complainant's Answers to Respondent's Affirmative Defenses, true and correct copies of which are attached and hereby served upon you.

Respectfully submitted,

LISA MADIGAN
Attorney General
State of Illinois

BY:



JOEL J. STERNSTEIN
Assistant Attorney General
Environmental Bureau
188 W. Randolph St., 20th Floor
Chicago, Illinois 60601
(312) 814-6986

THIS FILING IS SUBMITTED ON RECYCLED PAPER

SERVICE LIST

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CLERK'S OFFICE

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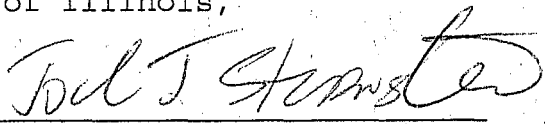
MOTION FOR LEAVE TO FILE ANSWERS TO RESPONDENT'S
AFFIRMATIVE DEFENSES

1. Pursuant to the June 24, 2004 hearing officer order in this matter, Complainant hereby requests that the Board and/or Hearing Officer Halloran grant it leave to file answers to Respondent AARGUS PLASTICS INC's fourth, fifth, sixth, and eleventh affirmative defenses.

2. During the June 24, 2004 status telephone conference, Respondent indicated that it did not object to Complainant filing answers to the aforementioned affirmative defenses.

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

By:


JOEL J. STERNSTEIN
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COMPLAINANT'S ANSWERS TO RESPONDENT'S
AFFIRMATIVE DEFENSES

1. Complainant, PEOPLE OF THE STATE OF ILLINOIS, ex rel. LISA MADIGAN, Attorney General of the State of Illinois, pursuant to the June 24, 2004 Pollution Control Board Hearing Officer order, hereby replies answers Respondent AARGUS PLASTICS, INC.'s fourth, fifth, sixth, and eleventh Affirmative Defenses

Background Information

2. On February 3, 2004, Respondent filed its answer and fourteen affirmative defenses to the complaint. On March 5, 2004, Complainant filed a Motion to Strike all of Respondent's Affirmative Defenses ("Motion to Strike"). On April 3, 2004, Respondent filed a Response to the Motion to Strike ("Response") in which it withdrew its first, third, seventh, eighth, ninth, and tenth affirmative defenses. Following Complainant's Reply to the Response, on May 20, 2004 the Board issued an order in

which it struck Respondent's second, twelfth, thirteenth, and fourteenth affirmative defenses. In the May 20, 2004 order, the Board declined to strike the fourth, fifth, sixth, and eleventh affirmative defenses. The fourth, fifth, sixth, and eleventh affirmative defenses and complainant's corresponding answers are as follows:

Affirmative Defense No. 4.

Complainant's claims are barred, in whole or in part, by the doctrine of laches because the Agency had known of the violations for years, but waited until January 31, 2002 to issue and serve a Violation Notice upon Aargus.

Answer: Complainant denies the allegations in Respondent's Affirmative Defense No. 4.

Affirmative Defense No. 5.

Complainant's claims have been waived, in whole or in part, because Complainant knew or should have known of its rights to take enforcement action against Aargus, but relinquished those rights by failing to take action.

Answer: Complainant denies the allegations in Respondent's Affirmative Defense No. 5.

Affirmative Defense No. 6.

Complainant's claims are barred, in whole or in part, by the doctrine of estoppel because the Agency regularly inspected the Aargus facility, knew or should have known or the alleged

violations, yet did not inform Aargus that it was allegedly violating applicable requirements. Consequently, the Agency authorized Aargus' practices and operations.

Answer: Complainant denies the allegations in Respondent's Affirmative Defense No. 6.

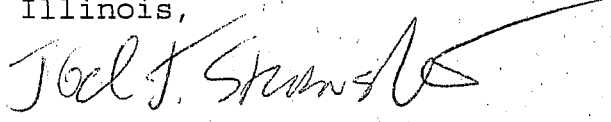
Affirmative Defense No. 11.

The IEPA failed to fairly advise Aargus of the applicable requirements and did not provide fair notice of those requirements.

Answer: Complainant denies the allegations in Respondent's Affirmative Defense No. 11.

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

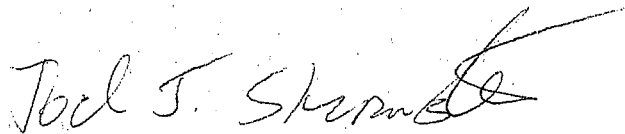
By:



JOEL J. STERNSTEIN
Assistant Attorney General
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CERTIFICATE OF SERVICE

I, JOEL J. STERNSTEIN, an Assistant Attorney General, certify that on the 8th day of July 2004, I caused to be served by First Class Mail the foregoing Motion for Leave to File Answers to Respondent's Affirmative Defenses and Complainant's Answers to Respondent's Affirmative Defenses to the parties named on the attached service list, by depositing same in postage prepaid envelopes with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois 60601.



JOEL J. STERNSTEIN