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JUL 21 2004

STATE OF ILLINOIS
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

July 16, 2004

PCB05-09

The Honorable Dorothy Gunn
Illinois Pollution Control Board
James R. Thompson Center, Ste. 11-500
100 West Randolph
Chicago, Illinois 60601

Re: ***People v. Danny Wiegel, d/b/a Wiegel's Tree Service***

Dear Clerk Gunn:

Enclosed for filing please find the original and ten copies of a NOTICE OF FILING, ENTRY OF APPEARANCE and COMPLAINT in regard to the above-captioned matter. Please file the originals and return file-stamped copies of the documents to our office in the enclosed self-addressed, stamped envelope.

Thank you for your cooperation and consideration.

Very truly yours,

Jennifer Bonkowski
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706
(217) 782-9031

JB/pp
Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD JUL 21 2004

PEOPLE OF THE STATE OF)
ILLINOIS,)
)
Complainant,)
)
vs.)
)
DANNY WIEGEL,)
d/b/a WIEGEL'S TREE SERVICE,)
)
Respondent.)

STATE OF ILLINOIS
Pollution Control Board

PCB No. 05-09
(Enforcement)

NOTICE OF FILING

To: Mr. Danny Wiegel
Wiegel's Tree Service
1130 Cody Road
Centralia, IL 62801

PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois, a COMPLAINT, a copy of which is attached hereto and herewith served upon you. Failure to file an answer to this Complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in this 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.

FURTHER, please take notice that financing may be available, through the Illinois Environmental Facilities Financing Act, 20 ILCS 3515/1 (2002), to correct the pollution alleged in the Complaint filed in this case.

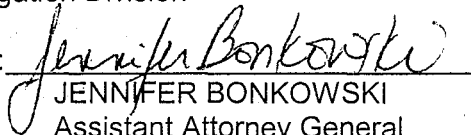
Respectfully submitted,

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:


JENNIFER BONKOWSKI
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: July 16, 2004

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JUL 21 2004

STATE OF ILLINOIS
Pollution Control Board


CERTIFICATE OF SERVICE

I hereby certify that I did on July 16, 2004, send by certified mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instruments entitled NOTICE OF FILING, ENTRY OF APPEARANCE and COMPLAINT:

To: Mr. Danny Wiegel
Wiegel's Tree Service
1130 Cody Road
Centralia, IL 62801

and the original and ten copies by First Class Mail with postage thereon fully prepaid of the same foregoing instrument(s):

To: Dorothy Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
Suite 11-500
100 West Randolph
Chicago, Illinois 60601


Jennifer Bonkowski
Assistant Attorney General

This filing is submitted on recycled paper.

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

JUL 21 2004

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.)
)
 DANNY WIEGEL,)
 d/b/a WIEGEL'S TREE SERVICE,)
)
 Respondent.)

PCB NO. 0509
(Enforcement)

APPEARANCE

I, JENNIFER BONKOWSKI, Assistant Attorney General of the State of Illinois, hereby file my appearance in this proceeding on behalf of the Complainant, PEOPLE OF THE STATE OF ILLINOIS.

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: *Jennifer Bonkowski*
JENNIFER BONKOWSKI,
Assistant Attorney General

JENNIFER BONKOWSKI
500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: 7/14/04

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD JUL 21 2004

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.)
)
 DANNY WIEGEL,)
 d/b/a WIEGEL'S TREE SERVICE,)
)
 Respondent.)

PCB NO. 05-09
(Enforcement)

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, DANNY WIEGEL, as follows:

COUNT I
AIR POLLUTION

1. This Complaint is brought by the Attorney General on her 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 (2002).

2. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2002), and charged, *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board ("Board").

3. This Complaint is brought pursuant to Section 31 of the Act, 415 ILCS 5/31 (2002), after providing the Respondent with notice and the opportunity for a meeting with the Illinois EPA.

4. Respondent, Danny Wiegel, owns and operates a business known as Wiegel's Tree Service at 1130 Cody Road in Centralia, Marion County, Illinois.

5. At a time better known to the Respondent, but at least beginning in April 2002, and reoccurring periodically through the present, the Respondent has caused or allowed the burning of tree trimmings, wood, logs, limbs, chips, and other waste at his business.

6. Section 9 of the Act, 415 ILCS 5/9 (2002), provides, in pertinent part:

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;

* * *

(c) Cause or allow the open burning of refuse. . . .

* * *

7. Section 3.115 of the Act, 415 ILCS 5/3.115 (2002), defines "air pollution" as follows:

"AIR POLLUTION" is the presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property.

8. Open burning is also prohibited by Section 237.102 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 237.102.

9. Section 237.101 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 237.101, provides the following applicable definitions:

"Landscape Waste": Any vegetable or plant refuse, except garbage and agricultural waste. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery and yard trimmings.

"Open Burning": The combustion of any matter in such a way that the products of the combustion are emitted to the open air without originating in or passing through equipment for which a permit could be issued under Section 9(b) of the Act [citation omitted].

"Refuse": Any discarded matter; or any matter which is to be reduced in volume, or otherwise changed in chemical or physical properties, in order to facilitate its discard, removal or disposal.

"Trade Waste": Any refuse resulting from the prosecution of any trade, business, industry, commercial venture, utility or service activity, and any government or institutional activity, whether or not for profit. The term includes landscape waste but excludes agricultural waste.

10. The tree trimmings, wood, logs, limbs, chips, and other waste burned by the Respondent were generated by Respondent's business and are considered as "refuse," "trade waste," and "landscape waste," as those terms are defined at Section 237.101 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 237.101.

11. By causing or allowing the open burning of tree trimmings, wood, logs, limbs, chips, and other waste on numerous occasions since April 2002, which resulted in the emission of smoke, odor and other contaminants in such quantity, duration, and concentration so as to cause air pollution by unreasonably interfering with the enjoyment of life or property by neighboring residents, the Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2002).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the People of The State of Illinois, respectfully request that the Board enter an order against the Respondent, Danny Wiegel:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2002), impose a civil penalty of up to fifty thousand dollars (\$50,000) for each violation and an additional penalty of ten thousand (\$10,000) for each day during which such violations continued;

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2002), awarding to Complainant its costs and reasonable attorney's fees; and

F. Granting such other relief as the Board may deem appropriate.

COUNT II
OPEN BURNING VIOLATIONS

1-10. Complainant repeats and realleges paragraphs 1 through 10 as paragraphs 1 through 10 of Count II.

11. By causing or allowing the open burning of tree trimmings, wood, logs, limbs, chips, and other waste by the Respondent on numerous occasions since April 2002, the Respondent has violated Section 9(c) of the Act, 415 ILCS 5/9(c) (2002).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the People of the State of Illinois, respectfully request that the Board enter an order against the Respondent, Danny Wiegel:

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

B. Finding that Respondent has violated the Act and regulations as alleged herein;

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

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2002), impose a civil penalty of up to fifty thousand dollars (\$50,000) for each violation that occurred and an

additional penalty of ten thousand (\$10,000) for each day during which such violations continued;

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2002), awarding to Complainant its costs and reasonable attorney's fees; and

F. Granting such other relief as the Board may deem appropriate.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,

LISA MADIGAN,
Attorney General
State of Illinois

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

BY: _____

THOMAS DAVIS
Assistant Attorney General
Environmental Bureau

Of Counsel

JENNIFER BONKOWSKI
Assistant Attorney General
500 South Second Street
Springfield, Illinois 62706
217/782-9031

Dated: 7/16/09