

ORIGINAL

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
)	
Complainant,)	
)	
)	
)	PCB
v.)	
)	(Enforcement - RCRA)
ASTEC MOBILE SCREENS, INC.,)	
a Nevada corporation)	
)	
Respondent.)	

NOTICE OF FILING

TO: See Attached Service List

PLEASE TAKE NOTICE that on March 9, 2006, the People of the State of Illinois filed with the Illinois Pollution Control Board a Complaint, a true and correct copy of which is attached and hereby 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 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.

Respectfully submitted,

LISA MADIGAN
Attorney General
State of Illinois

BY:



George D. Theophilos
Assistant Attorney General
Environmental Bureau
188 W. Randolph St., 20th Floor
Chicago, Illinois 60601
(312) 814-6986

THIS FILING IS SUBMITTED ON RECYCLED PAPER

2006/3/9

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SERVICE LIST

Mr. Paul Jagiello, Esq.
Illinois Environmental Protection Agency
9511 W. Harrison
Des Plaines, IL 60016

Mr. Tim Gonigam
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Astec Mobile Screens, Inc.
2704 West Le Fevre Road
Sterling, Illinois 61081

ORIGINAL

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	No. PCB 06-
)	(Enforcement - RCRA)
ASTEC MOBILE SCREENS, INC.,)	
a Nevada corporation,)	
)	
Respondent.)	

COMPLAINT FOR CIVIL PENALTIES

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency, complains of the Respondent, ASTEC MOBILE SCREENS, INC., a Nevada corporation, as follows:

COUNT I
CONDUCTING A HAZARDOUS WASTE STORAGE
OPERATION WITHOUT A RCRA PERMIT

1. This complaint is brought on behalf of the People of the State of Illinois by Lisa Madigan, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA") pursuant to Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2004).

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 (2004), and is charged, *inter alia*, with the duty of enforcing the Act.

3. At all times relevant to this Complaint, ASTEC MOBILE SCREENS, INC. ("Respondent" or "Astec") was and is a Nevada corporation that is in good standing in Illinois. Prior to May 1, 2004, Astec was known as Production Engineered Products ("PEP"). Astec/PEP is a division of Astec, Inc., a Chattanooga, Tennessee based corporation.

4. Respondent's facility is located at 2704 West LeFevre Road, Sterling, Whiteside County, Illinois ("facility"). Prior to 1999, the Respondent's facility was located in Walnut, Illinois.

5. Respondent manufactures portable screening units for the gravel industry at its facility.

6. As part of the manufacturing processes at the facility, Respondent conducts spray painting operations.

7. Respondent generates spent spray booth filters, paint booth floor sweepings, and other waste paint related materials as a result of its spray painting operations. Used oil is generated as a result of equipment maintenance and metal fabrication operation at the facility.

8. In 2004, thirty-two drums (approximately 1,760 gallons) of waste paint related material, generated from spray painting operations, were transported off-site. The waste paint

related material has United States Environmental Protection Agency ("USEPA") Hazardous Waste Numbers D001 and F003. Additionally, Respondent uses methyl ethyl ketone ("MEK") for a solvent, therefore USEPA Hazardous Waste Number F005 may apply as well. For the spray booth floor sweepings and spent spray booth filters, neither a hazardous waste determination nor generation rates are known. Floor sweepings are disposed of with the municipal waste at the facility. Disposal methods for the spent paint filters are unclear.

9. On April 23, 2004, the Illinois EPA conducted a Compliance Assistance Survey ("CAS") at the Respondent's facility. At that time, approximately 625 gallons of hazardous material were stored on site. The storage area held ten (10) full drums (approximately 550 gallons) of unlabeled, undated, suspected hazardous paint/solvent material. The satellite accumulation area held one (1) full 55-gallon unlabeled, undated container and one (1) partially full, unlabeled, open container.

10. The CAS also revealed that emergency response information was not posted by a telephone. The container storage area was not inspected weekly. Employees were not trained in waste handling and emergency procedures. Hazardous waste manifests were not being sent to the Illinois EPA within two (2) working days.

11. After the CAS, the Illinois EPA provided Respondent with a USEPA 8700-12 form and instructions as well as the USEPA publication "Managing Your Hazardous Waste: A Guide for Small Business." On May 27, 2004, the Illinois EPA sent a letter to Respondent with recommendations based on what was observed during the CAS. No response was received by the Illinois EPA to the letter.

12. On December 15, 2004, the Illinois EPA conducted a Compliance Evaluation Inspection ("CEI") of the facility. At the time of the CEI, approximately 165 gallons of hazardous waste were stored at the facility. Two (2) drums of spray booth filters and one (1) drum of floor sweepings were also on site and a hazardous waste determination had not been made on those materials. The satellite area held numerous partially full containers of suspected hazardous materials; all were unlabeled and two (2) were open. The storage area held two (2) drums of unlabeled, undated suspected hazardous material along with sixteen (16) other drums of various contents, including floor sweepings, spray booth filters and used oil.

13. At the time of the CEI, only two (2) of the CAS recommendations had been fully addressed by the Respondent. Respondent was now sending one copy of each hazardous waste manifest to the Illinois EPA within two (2) working days and accumulating less than 55-gallons of waste in the satellite

area. However, none of the other CAS recommendations had been addressed. Additionally, the Respondent failed to notify the Illinois EPA of its name change from PEP to Astec and change of contact information.

14. On January 7, 2005, a Violation Notice ("VN") was sent to Respondent by the Illinois EPA.

15. On February 22, 2005, Respondent submitted a compliance commitment agreement ("CCA") to the Illinois EPA. On March 16, 2005, the Illinois EPA rejected the CCA. While the CCA was technically adequate, it was rejected because the facility was considered a significant non-complier.

16. Section 721.102 of the Illinois Pollution Control Board ("Board") Waste Disposal Regulations, 35 Ill. Adm. Code 721.102, provides, in pertinent part, as follows:

Definition of Solid Waste

a) Solid waste.

- 1) A solid waste is any discarded material that is not excluded by Section 721.104(a) or that is not excluded pursuant to 35 Ill. Adm. Code 720.130 and 720.131.
- 2) A discarded material is any material that is described as follows:
 - A) Abandoned, as explained in subsection (b) of this Section;
 - B) Recycled, as explained in subsection (c) of this Section;
 - C) Considered inherently waste-like, as

explained in subsection (d) of this Section; or

D) A military munition identified as a solid waste in 35 Ill. Adm. Code 726.302.

b) A material is a solid waste if it is abandoned in one of the following ways:

- 1) It is disposed of;
- 2) It is burned or incinerated; or
- 3) It is accumulated, stored, or treated (but not recycled) before or in lieu of being abandoned by being disposed of, burned, or incinerated.

17. The contents of the drums located at the Respondent's facility were 'discarded material' pursuant to Section 721.102(a)(2) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 721.102(a)(2), because they were abandoned by accumulating and being stored at the Respondent's facility.

18. As a discarded material, the contents of the drums located at the Respondent's facility are solid waste, as that term is defined in Section 721.102(b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 721.102(b), as they are not excluded pursuant to Section 721.104(a), 35 Ill. Adm. Code 721.104(a), or Sections 721.130 and 721.131, 35 Ill. Adm. Code 721.130 and 721.131.

19. Section 721.103 of the Board Waste Disposal Regulations, 35 Ill. Adm. 721.103, provides, in pertinent part, as follows:

Definition of Hazardous Waste

- a) A solid waste, as defined in Section 721.102, is a hazardous waste if the following is true of the waste:
 - 1) It is not excluded from regulation as a hazardous waste under Section 721.104(b); and
 - 2) It meets any of the following criteria:
 - A) It exhibits any of the characteristics of hazardous waste identified in Subpart C of this Part...
 - B) It is listed in Subpart D of this Part and has not been excluded from the lists in Subpart D of this Part under 35 Ill. Adm. Code 720.120 and 720.122.

20. Section 721.121(b) of Subpart C of Part 721 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 721.121(b), provides as follows:

Characteristic of Ignitability

- b) A solid waste that exhibits the characteristic of ignitability has the USEPA hazardous waste number of D001.

21. Section 721.131 of Subpart D of Part 721 of the Board Waste Disposal Regulations, 35 Ill Adm. Code 721.131, provides, in pertinent part, as follows:

Hazardous Wastes from Nonspecific Sources

***** PCB 2006-143 *****

- a) The following solid wastes are listed hazardous wastes from non-specific sources unless they are excluded under 35 Ill. Adm. Code 720.120 and 720.122 and listed in Appendix I of this Part.

USEPA Hazardous Waste No.	Industry and Hazardous Waste
---------------------------	------------------------------

F003

The following spent non-halogenated solvents: xylene, acetone, ethyl acetate, ethyl benzene, ethyl ether, methyl isobutyl ketone, n-butyl alcohol, cyclohexanone, and methanol; all spent solvent mixtures and blends containing, before use, only the above spent non-halogenated solvents; and all spent solvent mixtures and blends containing, before use, one or more of the above non-halogenated solvents and a total of ten percent or more (by volume) of one or more of those solvents listed in F001, F002, F004, or F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures.

F005

The following spent non-halogenated solvents: toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, benzene, 2-ethoxyethanol, and 2-nitropropane; all spent solvent mixtures and blends, containing, before use, a total of ten percent or more (by volume) of one or more of the above non-halogenated solvents or those solvents listed in F001, F002, or F004; and still bottoms from the recovery of these spent solvents and spent solvent mixtures.

22. The waste paint related material generated and stored by Respondent exhibits the characteristic of ignitability and

has USEPA hazardous waste number D001. The waste paint related material is also a non-halogenated solvent listed as Hazardous Waste Number F003. Additionally, Respondent uses methyl ethyl ketone ("MEK") for a solvent, therefore USEPA Hazardous Waste Number F005 would apply to any such waste.

23. Section 3.315 of the Act, 415 ILCS 5/3.315 (2004), 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.

24. Respondent is a "person" as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2004).

25. Section 21(f) of the Act, 415 ILCS 5/21(f) (2004), provides, in pertinent part, as follows:

Prohibited acts. No person shall:

* * *

(f) Conduct any hazardous waste-storage, hazardous waste-treatment or hazardous waste-disposal operation:

(1) without a RCRA permit for the site issued by the Agency under subsection (d) of Section 39 of this Act, or in violation of any condition imposed by such permit, including periodic reports and full access to adequate records and the inspection of facilities, as may be necessary to assure compliance with this Act and with regulations and standards adopted thereunder; or

- (2) in violation of any regulations or standards adopted by the Board under this Act;

* * *

26. Section 720.110 of the Board Waste Disposal

Regulations, 35 Ill. Adm. Code 720.110, provides the following definitions:

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

"Facility" means the following:
All contiguous land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units (e.g., one or more landfills, surface impoundments, or combinations of them).

"Storage" means the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.

27. Section 702.110 of the Board Waste Disposal

Regulations, 35 Ill. Adm. Code 702.110, provides the following definitions:

"Hazardous waste management facility" or "HWM facility" means all contiguous land and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of "hazardous waste". A facility may consist of several treatment, storage, or disposal operational units (for example, one or more landfills, surface impoundments, or combinations of them).

"Generator" (RCRA) means any person, by site location, whose act or process produces "hazardous waste" identified or listed in 35 Ill. Adm. Code 721.

28. As a result of Respondent's operations, Astec was and is a generator of hazardous waste, as that term is defined in Section 702.110, 35 Ill. Adm. Code 702.110.

29. From at least April 23, 2004, or a date better know to the Respondent, Astec was the owner and/or operator of a "hazardous waste facility" as that term is defined in Section 702.110, 35 Ill. Adm. Code 702.110.

30. Sections 703.121(a) and (b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 703.121(a) and (b), provide as follows:

RCRA Permits

- a) No person may conduct any hazardous waste storage, hazardous waste treatment, or hazardous waste disposal operation as follows:
 - 1) Without a RCRA permit for the HWM (hazardous waste management) facility; or
 - 2) In violation of any condition imposed by a RCRA permit.
- b) An owner or operator of a HWM unit must have permits during the active life (including the closure period) of the unit. An owner or operator of a surface impoundment, landfill, land treatment unit or a waste pile unit that received wastes after July 26, 1982, or that certified closure (according to 35 Ill. Adm. Code 725.215) after January 26, 1983, must have a post-closure care permit, unless it demonstrates closure by removal or decontamination, as provided under Sections 703.159 and 703.160, or obtains

enforceable documents containing alternative requirements, as provided under Section 703.161. If a post-closure care permit is required, the permit must address applicable 35 Ill. Adm. Code 724 groundwater monitoring, unsaturated zone monitoring, corrective action, and post-closure care requirements.

31. From at least April 23, 2004, or a date better known to the Respondent, Astec was storing hazardous wastes at the facility in Sterling, Illinois.

32. The holding of the hazardous wastes constitutes "storage" as that term is defined in Section 720.110, 35 Ill. Adm. Code 720.110.

33. The facility is a "hazardous waste management facility" as that term is defined in Section 702.110, 35 Ill. Adm. Code 702.110.

34. From at least April 23, 2004, and continuing through the date of filing of this Complaint, or a date better known to the Respondent, Astec conducted a hazardous waste storage operation at the facility.

35. Respondent was required by Section 21(f) of the Act, 415 ILCS 5/21(f) (2004), to obtain a RCRA permit in order to conduct a hazardous waste storage operation.

36. From at least April 23, 2004, and continuing through the date of filing of this Complaint, Respondent has failed to obtain a RCRA permit for the facility or comply with the hazardous waste generator regulations that would exempt them

from such permit requirements, in violation of Section 21(f)(1) of the Act, 415 ILCS 5/21(f)(1)(2004), and Sections 703.121(a) and (b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 703.121(a) and (b).

37. By violating Sections 703.121(a) and (b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 703.121(a) and (b), Respondent thereby, also violated Section 21(f)(2) of the Act, 415 ILCS 21(f)(2)(2004).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, ASTEC MOBILE SCREENS, INC., for the following relief:

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

2. Finding that Respondent has caused or allowed violations of Sections 21(f)(1) and (2) of the Act, 415 ILCS 5/21(f)(1) and (2)(2004), and Sections 703.121(a) and (b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 703.121(a) and (b);

3. Assessing a civil penalty against the Defendant of Twenty-Five Thousand Dollars (\$25,000.00) per day of violation of Sections 21(f)(1) and (2) of the Act, 415 ILCS 5/21(f)(1) and (2)(2004), and Sections 703.121(a) and (b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 703.121(a) and (b);

4. Taxing all costs in this action, including attorney, expert witness and consultant fees, against the Respondent; and

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

COUNT II

FAILURE TO PERFORM A SPECIAL WASTE DETERMINATION

1-29. Plaintiff re-alleges and incorporates by reference herein paragraphs 1 through 29 of Count I as paragraphs 1 through 29 of this Count II.

30. Section 808.121(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(a), provides as follows:

Generator Obligations

- a) Each person who generates waste shall determine whether the waste is a special waste.

BOARD NOTE: 35 Ill. Adm. Code 722 requires the person to also determine if the waste is a hazardous waste.

31. From at least April 23, 2004, or on a date better known to the Respondent, Astec has generated spent spray booth filters and spray booth floor sweepings and failed to determine whether any of the waste was a special waste in violation of Section 808.121(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(a).

32. By violating Section 808.121(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(a), Respondent

thereby, also violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2)(2004).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, ASTEC MOBILE SCREENS, INC., for the following relief:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;
2. Finding that Respondent has caused or allowed violations of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2)(2004), and Section 808.121(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(a);
3. Assessing a civil penalty against the Defendant of Twenty-Five Thousand Dollars (\$25,000.00) per day of violation of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2)(2004), and Section 808.121(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(a);
4. Taxing all costs in this action, including attorney, expert witness and consultant fees, against the Respondent; and
5. Granting such other relief as the Board deems appropriate and just.

COUNT III
FAILURE TO PERFORM A HAZARDOUS WASTE DETERMINATION

1-29. Plaintiff re-alleges and incorporates by reference herein paragraphs 1 through 29 of Count I as paragraphs 1 through 29 of this Count III.

30. Section 722.111 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 722.111, provides, in pertinent part, as follows:

Hazardous Waste Determination

A person that generates a solid waste, as defined in 35 Ill. Adm. Code 721.102, must determine if that waste is a hazardous waste using the following method:

- a) The person should first determine if the waste is excluded from regulation under 35 Ill. Adm. Code 721.104.
- b) The person should then determine if the waste is listed as a hazardous waste in Subpart D of 35 Ill. Adm. Code 721.

BOARD NOTE: Even if a waste is listed as a hazardous waste, the generator still has an opportunity under 35 Ill. Code 720.122 to demonstrate that the waste from the generator's particular facility or operation is not a hazardous waste.

31. As a generator of solid waste, Respondent is required to determine whether the wastes generated and stored at the facility are hazardous wastes pursuant to Section 722.111 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 722.111.

32. From at least April 23, 2004, or a date better known to the Respondent, waste determinations were not available for the spent spray booth filters and spray booth floor sweepings at

the facility as required by Section 722.111 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 722.111.

33. By violating Section 722.111 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 722.111, Respondent thereby, also violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2)(2004).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, ASTEC MOBILE SCREENS, INC., for the following relief:

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

2. Finding that Respondent has caused or allowed violations of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2)(2004), and Section 722.111 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 722.111;

3. Assessing a civil penalty against the Defendant of Twenty-Five Thousand Dollars (\$25,000.00) per day of violation of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2)(2004), and Section 722.111 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 722.111;

4. Taxing all costs in this action, including attorney, expert witness and consultant fees, against the Respondent; and

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

COUNT IV
FAILURE TO PROPERLY LABEL USED OIL

1-29. Plaintiff re-alleges and incorporates by reference herein paragraphs 1 through 29 of Count I as paragraphs 1 through 29 of this Count IV.

30. Section 739.122(c)(1) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 739.122(c)(1), provides as follows:

Used Oil Storage

A used oil generator is subject to all applicable federal Spill Prevention, Control and Countermeasures (40 CFR 112) in addition to the requirements of this Subpart C. A used oil generator is also subject to the Underground Storage Tank (35 Ill. Adm. Code 731) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this Subpart C.

c) Labels.

- 1) Containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words "Used Oil."

31. As a generator of used oil, Respondent is required to label the used oil generated and stored at the facility pursuant to Section 739.122(c)(1) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 739.122(c)(1).

32. From at least April 23, 2004, or a date better known to the Respondent, Astec failed to label its used oil as required by Section 739.122(c)(1) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 739.122(c)(1).

33. By violating Section 739.122(c)(1) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 739.122(c)(1), Respondent thereby, also violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2)(2004).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, ASTEC MOBILE SCREENS, INC., for the following relief:

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

2. Finding that Respondent has caused or allowed violations of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2)(2004), and Section 739.122(c)(1) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 739.122(c)(1);

3. Assessing a civil penalty against the Defendant of Twenty-Five Thousand Dollars (\$25,000.00) per day of violation of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2)(2004), and Section 739.122(c)(1) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 739.122(c)(1);

4. Taxing all costs in this action, including attorney, expert witness and consultant fees, against the Respondent; and
5. Granting such other relief as the Board deems appropriate and just.

COUNT V

MANAGING AN INDUSTRIAL PROCESS WASTE AS A NON-SPECIAL WASTE
WITHOUT PROPER CERTIFICATION

1-28. Plaintiff re-alleges and incorporates by reference herein paragraphs 1 through 24 and 26 through 29 of Count I as paragraphs 1 through 28 of this Count V.

29. Section 22.48(a) of the Act, 415 ILCS 5/22.48(a) (2004), provides as follows:

Non-special waste certification; effect on permit.

- (a) An industrial process waste or pollution control waste not within the exception set forth in subdivision (2) of subsection (c) of Section 3.475 of this Act must be managed as special waste unless the generator first certifies in a signed, dated, written statement that the waste is outside the scope of the categories listed in subdivision (1) of subsection (c) of Section 3.475 of this Act.

30. Section 3.235 of the Act, 415 ILCS 5/3.235 (2004), provides the following definition:

"Industrial process waste" means any liquid, solid, semi-solid, or gaseous waste generated as a direct or indirect result of the manufacture of a product or the performance of a service. Any such waste which would pose a present or potential threat to human health or to the environment or with inherent properties which make the disposal of such waste in a landfill difficult to manage by normal means is an industrial process waste. "Industrial Process Waste" includes but

is not limited to spent pickling liquors, cutting oils, chemical catalysts, distillation bottoms, etching acids, equipment cleanings, paint sludges, incinerator ashes (including but not limited to ash resulting from the incineration of potentially infectious medical waste), core sands, metallic dust sweepings, asbestos dust, and off-specification, contaminated or recalled wholesale or retail products. Specifically excluded are uncontaminated packaging materials, uncontaminated machinery components, general household waste, landscape waste and construction or demolition debris.

31. As a generator of industrial process waste, Respondent was required to treat that waste as special waste unless Respondent certified its exclusion from that requirement.

32. From at least April 23, 2004, or a date better known to the Respondent, Astec failed to prepare a certification or treat its industrial process waste as special waste as required by Section 22.48(a) of the Act, 415 ILCS 5/22.48(a) (2004).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, ASTEC MOBILE SCREENS, INC., for the following relief:

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

2. Finding that Respondent has caused or allowed violation of Section 22.48(a) of the Act, 415 ILCS 5/22.48(a) (2004);

3. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of the Act and pertinent regulations, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;;

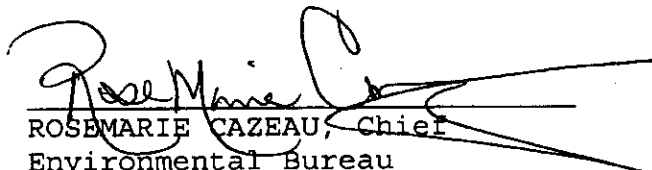
4. Taxing all costs in this action, including attorney, expert witness and consultant fees, against the Respondent; and

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

PEOPLE OF THE STATE OF ILLINOIS,
by LISA MADIGAN, Attorney
General of the State of Illinois

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

By:


ROSEMARIE CAZEAU, Chief
Environmental Bureau
Assistant Attorney General

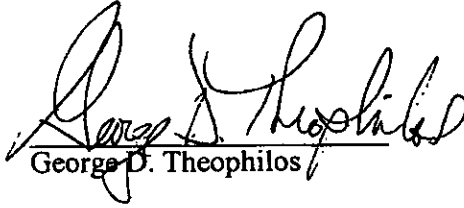
Of Counsel:

George D. Theophilos
Assistant Attorney General
Environmental Bureau
188 W. Randolph Street, Suite 2001
Chicago, Illinois 60601
(312) 814-6986

ORIGINAL

CERTIFICATE OF SERVICE

I, George D. Theophilos, an Assistant Attorney General, certify that on the 9th day of March, 2006, I caused to be served by Certified Mail (Respondent) and by First Class Mail (Illinois EPA Counsel) the foregoing Complaint 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.


George D. Theophilos