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MAR 23 2007

STATE OF ILLINOIS
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

March 20, 2007

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

PCB07-95

Re: ***People v. AET Environmental, Inc., a Colorado corp., and E.O.R. Energy, LLC,
a Colorado limited liability company***

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 to me in the enclosed, self-addressed envelope.

Thank you for your cooperation and consideration.

Very truly yours,

Michael D. Mankowski
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706
(217) 782-9031

MDM/pp
Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

MAR 23 2007

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF)
ILLINOIS,)
)
Complainant,)
)
vs.)
)
AET ENVIRONMENTAL, INC., a)
Colorado corporation, and E.O.R.)
ENERGY, LLC, a Colorado limited)
liability company,)
)
Respondents.)

PCB No. 07-95
(Enforcement)

NOTICE OF FILING

To:	AET ENVIRONMENTAL, INC.	E.O.R. ENERGY, LLC
	c/o Lori M. Devito, R.A.	c/o James Hamilton, R.A.
	14 Lakeside Lane	14 Lakeside Lane
	Denver, CO 80212	Denver, CO 80212

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.

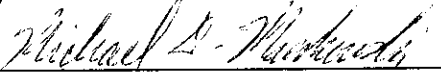
FURTHER, please take notice that financing may be available, through the Illinois Environmental Facilities Financing Act, 20 ILCS 3515/1 (2004), to correct the pollution alleged in the Complaint filed in this case.

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: 

MICHAEL D. MANKOWSKI
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: March 20, 2007

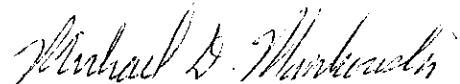
CERTIFICATE OF SERVICE

I hereby certify that I did on March 20, 2007, 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:	AET ENVIRONMENTAL, INC.	E.O.R. ENERGY, LLC
	c/o Lori M. Devito, R.A.	c/o James Hamilton, R.A.
	14 Lakeside Lane	14 Lakeside Lane
	Denver, CO 80212	Denver, CO 80212

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



Michael D. Mankowski
Assistant Attorney General

This filing is submitted on recycled paper.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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MAR 23 2007

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF
ILLINOIS,

Complainant,

vs.

AET ENVIRONMENTAL, INC., a
Colorado corporation, and E.O.R.
ENERGY, LLC, a Colorado limited
liability company,

Respondent.

PCB No. 07-95
(Enforcement)

ENTRY OF APPEARANCE

On behalf of the Complainant, PEOPLE OF THE STATE OF ILLINOIS, MICHAEL D. MANKOWSKI, Assistant Attorney General of the State of Illinois, hereby enters his appearance as attorney of record.

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: Michael D. Mankowski

MICHAEL D. MANKOWSKI
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: March 20, 2007

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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MAR 23 2007

STATE OF ILLINOIS
Pollution Control Board

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

Complainant,

v.

AET ENVIRONMENTAL, INC., a Colorado
corporation, E.O.R. ENERGY, LLC, a
Colorado limited liability company,

Respondents.

PCB No. 07-95
(Enforcement)

COMPLAINT

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 Respondents, AET ENVIRONMENTAL, INC., a Colorado corporation, E.O.R. ENERGY, LLC., a Colorado limited liability company, as follows:

COUNT I

HAZARDOUS WASTE TRANSPORT VIOLATIONS BY AET ENVIRONMENTAL, INC.,

AND E.O.R. ENERGY, LLC,

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 (2004).

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 (2004), 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 (2004), after providing the Respondents with notice and the opportunity for a meeting with the Illinois

EPA.

4. SOURCE ENVIRONMENTAL, INC., is a Colorado corporation in good standing and registered with the Colorado Secretary of State to conduct business under the trade name of AET ENVIRONMENTAL, INC., ("AET Environmental").

5. E.O.R. ENERGY, LLC, ("E.O.R. Energy") is a Colorado limited liability company in good standing.

6. At all times relevant to this Complaint, E.O.R. Energy held oil leases for two oil fields near Pawnee, Illinois. The first oil field ("Rink-Truax Lease") is located north of 2050 N Road and 400 E Road, South Fork Township, Christian County, Illinois. The second oil field ("Galloway Lease") is located along Township Road 4.25E South East of the junction with Township Road 13S, Pawnee, Cotton Hill Township, Sangamon County, Illinois.

7. Section 21 of the Act, 415 ILCS 5/21 (2004), provides, in pertinent part:

No person shall:

* * *

- (e) Dispose, treat, store or abandon any waste, or transport any waste into this State for disposal, treatment, storage or abandonment, except at a site or facility which meets the requirements of this Act and of regulations and standards thereunder.

* * *

- (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 conditions imposed by such permit. . . .

* * *

8. Section 3.470 of the Act, 415 ILCS 5/3.470 (2004), provides as follows:

"SOLID WASTE" means waste.

9. Section 3.535 of the Act, 415 ILCS 5/3.535 (2004), provides as follows:

"WASTE" means any garbage . . . or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities,

* * *

10. Section 3.220 of the Act, 415 ILCS 5/3.220 (2004), provides as follows:

"HAZARDOUS WASTE" means a waste, or combination of wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious, irreversible, or incapacitating reversible, illness; or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed, and which has been identified, by characteristics or listing, as hazardous pursuant to Section 3001 of the Resource Conservation and Recovery Act of 1976, P.L. 94-580, or pursuant to Board regulations.

11. Section 3.185 of the Act, 415 ILCS 5/3.185 (2004), provides as follows:

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

12. The Respondents are "persons" as that term is defined under Section 3.315 of the Act, 415 ILCS 5/3.315 (2004), as follows:

"PERSON" is any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agency or assigns.

13. On a date prior to July 19, 2002, and better known to the Respondents, AET Environmental, an authorized transporter of hazardous waste, was retained to arrange for the disposal of eight (8) two hundred and seventy five (275) gallon plastic totes full of acid generated by an electroplating company in Grand Junction, Colorado.

14. The acid is a "hazardous waste" as defined by Section 3.220 of the Act, 415 ILCS 5/3.220 (2004).

15. On or about July 19, 2002, or a date better know to the Respondents, AET

Environmental shipped the eight (8) plastic totes of hazardous waste acid to Arvada Treatment Center, a Resource Conservation and Recovery Act ("RCRA") permitted treatment, storage and disposal facility in Arvada, Colorado, with a hazardous waste manifest describing the acid as "WASTE CORROSIVE LIQUID, N.O.S., (CONTAINS FLUOROBORIC ACID COLYCOLIC ACID) 8, UN1760, PGII."

16. On information and belief, Arvada rejected the shipment because it was in a reactive state, emitting a cloud of orange, yellow, and red vapor, and the manifest failed to describe the hazardous waste acid as D003 reactive hazardous waste. Another RCRA permitted facility, Safety-Kleen in Deer Trail, Colorado, also rejected the acid.

17. On information and belief, AET Environmental transported the hazardous waste acid to its transfer facility in Commerce City, Colorado where it was stored for approximately one to two weeks. At this time AET Environmental replaced the plastic totes housing the hazardous waste acid as they had started to melt. AET Environmental also treated the hazardous waste acid by adding water and glycolic acid in an attempt to lessen its reactivity. The treatment process increased the volume of the hazardous waste acid from eight (8) plastic totes to twelve (12) plastic totes.

18. On a date prior to August 30, 2002, and better known to the Respondents, E.O.R. Energy, which is located in the same office facility as AET Environmental, became aware of the acid stored at AET Environmental's transfer facility.

19. On information and belief, E.O.R. Energy inquired about the acid and then arranged to have it shipped to a site near the old Peabody Coal Company Mine # 10 located along Route 104 approximately three and a half (3.5) miles east of Pawnee, Sangamon County, Illinois ("storage site").

20. AET Environmental created a hazardous materials shipping order identifying the acid as "CORROSIVE LIQUID ACID, INORGANIC, N.O.S. (PHOSPHORIC NITRIC), 8,

UN2364, PGII."

21. On August 30, 2002 or a date better known to the Respondents, the hazardous waste acid was shipped, without a hazardous waste manifest, from the AET Environmental transfer station in Commerce City, Colorado to the storage site located near Pawnee, Illinois.

22. After arriving in Pawnee, Illinois, E.O.R. Energy stored the twelve (12) totes of acid in a warehouse located at the storage site.

23. From August 30, 2002 until February, 24, 2004, laborers hired by E.O.R. Energy discharged the hazardous waste acid down piping at various wells located at the Rink-Truax and Galloway oil fields operated by E.O.R. Energy. These discharges of the acid constituted disposal of a hazardous waste.

24. Over three to four months, or a period known better by Respondents, E.O.R. Energy's laborers discharged approximately eight totes of acid into the wells.

25. On information and belief, approximately one (1) full tote (approximately 275 gallons) of hazardous waste acid was discharged into Galloway #1, a gas injection well. Approximately seven (7) totes (approximately 1925 gallons) were discharged into Rink #1, a salt water disposal well. The remaining approximate 65 gallons were discharged into three (3) oil production wells: Galloway #3, Rink #4, and Truax #3.

26. On February 24, 2004 the United States Environmental Protection Agency ("USEPA") executed a search warrant at the storage site where the hazardous waste acid was being stored and discovered that only three and a half (3.5) totes of hazardous waste acid were still present at the facility. Samples taken of the hazardous waste acid had pH levels of less than 2 standard units, exhibiting the RCRA characteristic of corrosivity, and exceeded the Toxic Characteristic Leaching Procedure ("TCLP") chromium limit of 5.0 milligrams per liter, exhibiting the RCRA characteristic of toxicity.

27. On November 17, 2004 Illinois EPA inspected the warehouse at the storage site.

28. In the warehouse, an Illinois EPA inspector observed eight (8) empty totes, three (3) full totes and one (1) tote approximately half full of hazardous waste acid.

29. The warehouse had no electric power, was not heated, and the floor was wet in several places because the building did not entirely keep out the outside weather.

30. An Illinois EPA inspector observed 50-pound bags of hydrated lime and soda ash-like material sitting on pallets near the plastic totes. Several of the older bags of lime and ash had deteriorated to the point that the paper was split and white material could be observed on and around the bags.

31. AET Environmental and E.O.R. Energy have transported wastes, including hazardous wastes, into this State for storage and disposal at a site which does not meet the requirements of the Act and of regulations and standards thereunder, and have thereby violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2004).

PRAYER FOR RELIEF

WHEREFORE, the Complainant, People of the State of Illinois, respectfully requests that the Board grant the following relief:

A. Find that AET ENVIRONMENTAL, INC. and E.O.R. ENERGY, LLC, have violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2004);

B. Order AET ENVIRONMENTAL, INC. and E.O.R. ENERGY, LLC, to cease and desist from further violations of the Act and associated regulations pursuant to Section 42(e) of the Act, 415 ILCS 5/42(e) (2004);

C. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2004), impose upon AET ENVIRONMENTAL and E.O.R. ENERGY, LLC, a monetary penalty of not more than the statutory maximum; and

D. Grant such other and further relief as the Board deems appropriate.

COUNT II

HAZARDOUS WASTE STORAGE AND DISPOSAL VIOLATIONS

BY E.O.R. ENERGY, LLC,

1-30. Complainant realleges and incorporates herein by reference paragraphs 1 through 30 of Count I as paragraphs 1 through 30 of this Count II.

31. E.O.R. Energy has stored, disposed, and/or abandoned wastes, including hazardous wastes, at a site which does not meet the requirements of the Act and of regulations and standards thereunder, and have thereby violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2004).

32. E.O.R. Energy has conducted a hazardous waste-storage operation without a RCRA permit, and has thereby violated Section 21(f)(1) of the Act, 415 ILCS 5/21(f)(1) (2004).

PRAYER FOR RELIEF

WHEREFORE, the Complainant, People of the State of Illinois, respectfully requests that the Board grant the following relief:

A. Find that E.O.R. ENERGY, LLC has violated Sections 21(e) & (f)(1) of the Act, 415 ILCS 5/21(e) & (f)(1) (2004);

B. Order E.O.R. ENERGY, LLC, to cease and desist from further violations of the Act and associated regulations pursuant to Section 42(e) of the Act, 415 ILCS 5/42(e) (2004);

C. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2004), impose upon E.O.R. ENERGY, LLC, a monetary penalty of not more than the statutory maximum; and

D. Grant such other and further relief as the Board deems appropriate.

COUNT III

OPERATION WITHOUT A HAZARDOUS WASTE PERMIT

BY E.O.R. ENERGY, LLC

1-30. Complainant realleges and incorporates herein by reference paragraphs 1 through 30 of Count I as paragraphs 1 through 30 of this Count III.

31. Section 703.121(a) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 703.121(a), provides that no person may conduct any hazardous waste storage, hazardous waste treatment, or hazardous waste disposal operation without a RCRA permit for the hazardous waste management ("HWM") facility.

32. E.O.R. Energy as never issued a RCRA permit for a HWM facility.

33. E.O.R. Energy stored hazardous waste acid at a facility without having a RCRA permit.

34. E.O.R. Energy violated 35 Ill. Adm. Code 703.121(a) by storing the hazardous waste acid at the storage site without a RCRA permit and thereby violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2004).

35. E.O.R. Energy is an "operator" of a "facility" as those terms are defined in Section 720.110 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code Code 720.110, as follows:

* * *

"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 (e.g., one or more landfills, surface impoundments, or combinations of them).

* * *

"OPERATOR" means the person responsible for the overall operation of a facility.

"OWNER" means the person that owns a facility or part of a facility.

* * *

36. Section 703.121(b) of the Board's Waste Disposal Regulations, 35 Ill. Adm.

Code 703.121(b), provides that an owner or operator of a HWM unit must have permits during the active life (including the closure period) of the unit.

37. E.O.R. Energy failed to acquire a RCRA permit to store hazardous waste at the facility during its active life.

38. E.O.R. Energy violated 35 Ill. Adm. Code 703.121(b) by failing to have a RCRA permit to store hazardous waste at the facility during its active life and thereby violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2004).

39. Section 703.150 of the Board's RCRA Permit Program Regulations, 35 Ill. Adm. Code 703.150, provides, in pertinent part, as follows:

- a) The owner or operator of an existing HWM facility or of an HWM facility in existence on the effective date of statutory or regulatory amendments that render the facility subject to the requirement to have a RCRA permit must submit Part A of the permit application to the Agency no later than the following times, whichever comes first:

* * *

- 2) Thirty days after the date the owner or operator first becomes subject to the standards in 35 Ill. Adm. Code 725 or 726; or

40. E.O.R. Energy, as an operator of a HWM facility, did not apply for a RCRA permit within 30 days after being subject to the standards of 35 Ill. Adm. Code, Part 725 or 726.

41. E.O.R. Energy violated 35 Ill. Adm. Code 703.150(a)(2) by failing to apply for a RCRA permit within 30 days after being subject to the standards of 35 Ill. Adm. Code, Part 725 or 726, and thereby violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2004).

PRAYER FOR RELIEF

WHEREFORE, the Complainant, People of the State of Illinois, respectfully requests that the Board grant the following relief:

A. Find that E.O.R. ENERGY, LLC has violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2), and Sections 703.121(a) and (b) and 703.151(a)(2) of the Board's Waste

Disposal Regulations, 35 Ill. Adm. Code 723.120(a)(1);

B. Order E.O.R. ENERGY, LLC to cease and desist from further violations of the Act and associated regulations pursuant to Section 42(e) of the Act, 415 ILCS 5/42(e) (2004);

C. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2004), impose upon E.O.R. ENERGY, LLC, a monetary penalty of not more than the statutory maximum; and

D. Grant such other and further relief as the Board deems appropriate.

COUNT IV

HAZARDOUS WASTE MANAGEMENT VIOLATIONS

BY E.O.R. ENERGY, LLC

1-33. Complainant realleges and incorporates herein by reference paragraphs 1 through 30 of Count I and paragraphs 32, 33 and 35 of Count III as paragraphs 1 through 33 of this Count IV.

34. Section 725.111 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 725.111, provides that every facility owner or operator must apply to USEPA for a USEPA identification number in accordance with the USEPA notification procedures.

35. The facility operated by E.O.R. Energy does not have a USEPA identification number in accordance with the USEPA notification procedure.

36. E.O.R. Energy violated 35 Ill. Adm. Code 725.111 by failing to acquire a USEPA identification number and thereby violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2004).

37. Section 725.113 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 725.113, requires that any person who stores a hazardous waste shall first obtain a detailed chemical and physical analysis of such waste.

38. E.O.R. Energy failed to obtain a detailed chemical and physical analysis of the

hazardous waste acid.

39. E.O.R. Energy violated 35 Ill. Adm. Code 725.113 by failing to first obtain a detailed chemical and physical analysis of the hazardous waste acid and thereby violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2004).

40. Section 725.114 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 725.114, provides security requirements to prevent unauthorized entry into a facility including use of a surveillance system, fencing, and signs.

41. E.O.R. Energy failed to employ required measures to prevent unauthorized entry into its facility.

42. E.O.R. Energy violated 35 Ill. Adm. Code 725.114 by failing to employ required measures to prevent unauthorized entry into its facility and thereby violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2004).

43. Section 725.115(a) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 725.115, provides that inspections must be conducted according to a written schedule to identify and correct conditions that might lead to a release of hazardous waste constituents or a threat to human health..

44. E.O.R. Energy failed to conduct inspections according to a written schedule.

45. E.O.R. Energy violated 35 Ill. Adm. Code 725.115 by failing to conduct inspections according to a written schedule and thereby violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2004).

46. Section 725.116 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 725.116, provides procedures that the owner or operator must follow for training its personnel and documenting said training.

47. E.O.R. Energy failed to follow the proper procedures for training and documenting their personnel.

48. E.O.R. Energy violated 35 Ill. Adm. Code 725.116 by failing to follow the proper procedures for training and documenting their personnel and thereby violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2004).

49. Section 725.117 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 725.117, provides that all necessary precautions be taken to prevent the ignition or reaction of ignitable or reactive wastes.

50. E.O.R. Energy stored the hazardous waste acid immediately adjacent to deteriorated and ripped bags of hydrated lime and a soda ash-like substance, both of which are incompatible with acids, therefore failing to take all precautions to prevent the reaction of reactive wastes.

51. E.O.R. Energy violated 35 Ill. Adm. Code 725.117 by failing to take all necessary precautions to prevent the ignition or reaction of ignitable or reactive wastes and thereby violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2004).

52. Section 725.131 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 725.131, provides that a facility must be maintained and operated to minimize the possibility of a fire, explosion or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil or surface water which could threaten human health or the environment.

53. E.O.R. Energy violated 35 Ill. Adm. Code 725.131 by failing to properly maintain and operate their facility and thereby violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2002).

54. There were no records at the facility documenting the testing of facility communications or alarm systems, fire protection equipment, spill control equipment and decontamination equipment, nor records indicating that an attempt was made to familiarize police, fire departments and emergency response teams with the layout of the facility,

properties of hazardous waste handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility and possible evacuation routes.

55. Section 725.132 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 725.132, requires the implementation and maintenance of communications, alarm, spill control and fire protection systems.

56. E.O.R. Energy violated 35 Ill. Adm. Code 725.132 by failing to implement and maintain communications, alarm, spill control and fire protection systems at their facility and thereby violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2004).

57. Section 725.137 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 725.137, requires the familiarization of the local police, fire department and hospital concerning the type of hazardous waste stored at the site.

58. E.O.R. Energy violated 35 Ill. Adm. Code 725.137 by failing to familiarize the local police, fire department and hospital concerning the type of hazardous waste stored at the site and thereby violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2004).

59. Section 725.151(a) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 725.151(a), provides, in pertinent part, as follows:

- a) Each owner or operator must have a contingency plan for his facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water...

60. E.O.R. Energy failed to develop a contingency plan for the facility.

61. E.O.R. Energy violated 35 Ill. Adm. Code 725.151(a) by failing to develop a contingency plan for the facility and thereby violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2004).

62. Section 725.155 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code

725.155, requires designation of an employee of the facility as the emergency coordinator with the responsibility to coordinate all emergency response measures.

63. E.O.R. Energy violated 35 Ill. Adm. Code 725.155 by failing to designate an employee of the facility as the emergency coordinator with the responsibility to coordinate all emergency response measures, and thereby violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2004).

64. Section 725.171(c) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 725.171(c), provides that the owner or operator must prepare Illinois EPA manifests and make sure the manifests accompany the hazardous waste during transport.

65. E.O.R. Energy violated 35 Ill. Adm. Code 725.171(c) by failing to prepare Illinois EPA manifests and make sure the manifests accompanied the hazardous waste acid from the facility to the oil wells and thereby violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2004).

66. Section 725.173 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 725.173, requires the owner or operator to keep a written operating record at the facility, until closure, including: the quantity of each hazardous waste received; methods used for its treatment, storage or disposal; the location of each hazardous waste within the facility and the quantity at each location.

67. E.O.R. Energy violated 35 Ill. Adm. Code 725.173 by failing to keep a written operating record as described in 35 Ill. Adm. Code 725.173 for the hazardous waste acid and thereby violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2004).

68. Section 725.175 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 725.175, requires the owner and operator to prepare and submit, using forms provided by the Illinois EPA, annual reports for the hazardous waste acid stored at the site.

69. E.O.R. Energy violated 35 Ill. Adm. Code 725.175 by failing to prepare and

submit annual reports for the hazardous waste acid stored at the site and thereby violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2004).

70. Section 725.212(a) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 725.212(a), provides that a written closure plan must be developed and kept on site within six months after the effective date of the rule that first subjects a facility to provisions of Section 725.

71. E.O.R. Energy violated 35 Ill. Adm. Code 725.212(a) by failing to develop a closure plan for the storage of the hazardous waste acid and thereby violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2004).

72. Section 725.242(a) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 725.242(a), requires the owner or operator to prepare a detailed written estimate, in current dollars, of the cost of closing the facility

73. E.O.R. Energy violated 35 Ill. Adm. Code 725.242(a) by failing to prepare a detailed written estimate, in current dollars, of the cost of closing the storage unit for the hazardous waste acid and thereby violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2004).

74. Section 725.243(a) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 725.243(a), provides, in pertinent part, as follows:

An owner or operator of each facility must establish financial assurance for closure of the facility....

75. E.O.R. Energy violated 35 Ill. Adm. Code 725.243(a) by failing to establish financial assurance for closure of the facility and thereby violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2004).

76. Section 725.274 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 725.274, provides, in pertinent part, as follows:

The owner or operator must inspect areas where containers are stored at least weekly, looking for leaks and for deterioration caused by corrosion or other factors.

77. E.O.R. Energy violated 35 Ill. Adm. Code 725.274 by failing to have facility personnel inspect the building containing the hazardous waste acid containers at least weekly for leaks or deterioration and thereby violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2004).

78. Section 725.278 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 725.278, provides that the owner or operator must manage all hazardous waste placed in a container in accordance with the requirements of Subparts AA, BB, and CC of 35 Ill. Adm. Code 724.

79. E.O.R. Energy violated 35 Ill. Adm. Code 725.278 by failing to make a determination pursuant to 725.984(a) on the average volatile organic concentration of the containerized hazardous waste acid and thereby violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2004).

PRAYER FOR RELIEF

WHEREFORE, the Complainant, People of the State of Illinois, respectfully requests that the Board grant the following relief:

A. Find that E.O.R. ENERGY, LLC has violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2), and Sections 725.111, 725.113, 725.114, 725.115, 725.116, 725.117, 725.131, 725.132, 725.137, 725.151(a), 725.155, 725.171(c), 725.173, 725.175, 725.212(a), 725.242(a), 725.243(a), 725.274, and 725.278 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 725.111, 725.113, 725.114, 725.115, 725.116, 725.117, 725.131, 725.132, 725.137, 725.151(a), 725.155, 725.171(c), 725.173, 725.175, 725.212(a), 725.242(a), 725.243(a), 725.274, and 725.278 ;

- B. Order E.O.R. ENERGY, LLC to cease and desist from further violations of the Act and associated regulations pursuant to Section 42(e) of the Act, 415 ILCS 5/42(e) (2004);
- C. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2004), impose upon E.O.R. ENERGY, LLC a monetary penalty of not more than the statutory maximum; and
- D. Grant such other and further relief as the Board deems appropriate.

COUNT V

UNDERGROUND INJECTION CONTROL PERMIT PROGRAM

VIOLATIONS BY E.O.R. ENERGY, LLC

1-30. Complainant realleges and incorporates herein by reference paragraphs 1 through 30 of Count I as paragraphs 1 through 30 of this Count V.

31. Section 12(g) of the Act, 415 ILCS 5/12(g) (2004), provides, in pertinent part:

No person shall:

- g) Cause, threaten or allow the underground injection of contaminants without a UIC permit issued by the Agency under Section 39(d) of this Act, or in violation of any term or condition imposed by such permit, or in violation of any regulations or standards adopted by the Board or of any order adopted by the Board with respect to the UIC program.

* * *

32. Section 704.121 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 704.121, provides, in pertinent part:

Any underground injection, except into a well authorized by permit or rule issued under this part and 35 Ill. Adm. Code 705, as applicable, is prohibited. The construction of any well required to have a permit under this Part is prohibited until the permit has been issued.

33. Section 704.203 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 704.203, provides, in pertinent part:

In addition to requiring compliance with the applicable requirements of this Part and 35 Ill. Adm. Code 730, the owner or operator of any facility described in Section 704.202 shall comply with the following:

- a) Notification. The owner or operator shall comply with the notification requirements of Section 3010 of the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.).
- b) Identification number. The owner or operator shall comply with the requirements of 35 Ill. Adm. Code 724.111 and 40 CFR 264.11 (1992).
- c) Manifest system. The owner or operator shall comply with the applicable recordkeeping and reporting requirements for manifested wastes in 35 Ill. Adm. Code 724.171 and 40 CFR 264.71 (1992).
- d) Manifest discrepancies. The owner or operator shall comply with 35 Ill. Adm. Code 724.172 and 40 CFR 264.72 (1992).
- e) Operating record. The owner or operator shall comply with 35 Ill. Adm. Code 724.173(a), (b)(1), and (b)(2) and 40 CFR 264.73(a), (b)(1) and (b)(2) (1992), as amended at 57 Fed. Reg. 3487 (Jan. 29, 1992).
- f) Annual report. The owner or operator shall comply with 35 Ill. Adm. Code 724.175 and 40 CFR 264.75 (1992).
- g) Unmanifested waste report. The owner or operator shall comply with 35 Ill. Adm. Code 724.176 and 40 CFR 264.76 (1992).
- h) Personnel training. The owner or operator shall comply with the applicable personnel training requirements of 35 Ill. Adm. Code 724.116 and 40 CFR 264.16 (1992).
- i) Certification of closure. When abandonment is completed, the owner or operator must submit to the Agency certification by the owner or operator and certification by an independent registered professional engineer that the facility has been closed in accordance with the specifications in Section 704.188.

34. E.O.R. Energy did not have an Underground Injection Control ("UIC") permit or authorization by rule to inject hazardous waste into the wells at the Rink-Truax or Galloway Leases.

35. E.O.R. Energy injected hazardous waste acid into wells without having a UIC permit or authorization by rule.

36. E.O.R. Energy violated 35 Ill. Adm. Code 704.121 by injecting hazardous waste acid into wells without having a Underground Injection Control ("UIC") permit or authorization by rule and thereby violated Section 12(g) of the Act, 415 ILCS 5/12(g) (2004).

37. E.O.R. Energy failed to comply with the requirements of Section 704.203 of the Board's Waste Disposal Regulations and thereby violated Section 12(g) of the Act 415 ILCS 5/12(g) (2004).

PRAYER FOR RELIEF

WHEREFORE, the Complainant, People of the State of Illinois, respectfully requests that the Board grant the following relief:

A. Find that E.O.R. ENERGY, LLC has violated Section 12(g) of the Act, 415 ILCS 5/12(g), and Sections 704.121 and 704.203 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 704.121 and 704.203;

B. Order E.O.R. ENERGY, LLC to cease and desist from further violations of the Act and associated regulations pursuant to Section 42(e) of the Act, 415 ILCS 5/42(e) (2004);

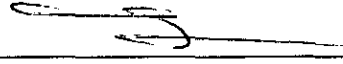
C. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2004), impose upon E.O.R. ENERGY, LLC a monetary penalty of not more than the statutory maximum; and

D. Grant such other and further relief as the Board deems appropriate.

Respectfully submitted,

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