

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,

Complainant,

vs.

87th & GREENWOOD, LLC, a Delaware
Limited Liability Company,
INNOVATIVE RECYCLING
TECHNOLOGIES, INC., a Connecticut
corporation, and
LAND RECLAMATION SERVICES, INC.,
an Illinois corporation,

Respondents.

No. PCB
(Enforcement-Land)

NOTICE OF ELECTRONIC FILING

PLEASE TAKE NOTICE that we have today, March 19, 2010, filed the initial Complaint in this matter with the Office of the Clerk of the Illinois Pollution Control Board, by electronic filing. A true and accurate copy of the Complaint is attached herewith and 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.

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 pollution.

RESPECTUFLLY 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

ROSEMARIE CAZEAU, Chief
Environmental Bureau North

BY:



CHRISTOPHER GRANT
Environmental Bureau
Assistant Attorney General
69 W. Washington Street, #1800
Chicago, Illinois 60602
(312) 814-5388

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COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney
General of the State of Illinois, complains of Respondents, 87th & GREENWOOD, LLC,
INNOVATIVE RECYCLING TECHNOLOGIES, INC., and LAND RECLAMATION
SERVICES, INC., as follows:

VIOLATIONS ALLEGED AGAINST ALL RESPONDENTS

COUNT I
OPEN DUMPING OF WASTE

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
the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415
ILCS 5/31 (2008).

2. Illinois EPA is an administrative agency of the State of Illinois, established by Section 4 of the Act, 415 ILCS 5/4 (2008), and is charged, *inter alia*, with the duty of enforcing the Act and regulations promulgated by the Illinois Pollution Control Board ("Board").

3. At all times relevant to this complaint, Respondent 87TH & Greenwood, LLC ("87th & Greenwood"), was, and is, a Delaware limited liability company, duly authorized to transact business in Illinois.

4. Respondent Innovative Recycling Technologies, Inc. ("IRT") is a Connecticut corporation in good standing.

5. At all times relevant to this Complaint, Respondent Land Reclamation Services, Inc. ("LRS"), was an Illinois corporation duly authorized to transact business in the State of Illinois. LRS was involuntarily dissolved by the Illinois Secretary of State on January 1, 2009.

6. Beginning on a date better known to Respondent 87th & Greenwood, Respondent 87th & Greenwood began development and construction of a storage facility on property located at 1040 E. 87th Street, Chicago, Cook County, Illinois ("Excavation Site").

7. In October 2005, a laboratory analysis of the soil from the Excavation Site was performed. The analysis showed that the soil was contaminated with a number of non-naturally occurring compounds at levels which exceeded background levels for both the City of Chicago and the Chicago Metropolitan Area.

8. 87th & Greenwood retained IRT for removal and disposal of materials excavated from the Excavation Site. Pursuant to their agreement, 87th & Greenwood paid IRT a fixed fee per truck of soil removed. IRT was responsible for selection of the disposal site and payment of disposal costs.

9. During excavation and removal, IRT representatives were present at the Excavation Site. IRT provided oversight and supervision of the excavated materials and on-site coordination of the disposal operations.

10. At all times relevant to the Complaint, LRS owned and operated a clean construction and demolition debris fill business located at 1127 South Chicago Street, Joliet, Will County, Illinois ("LRS Site"). At all times relevant to the Complaint, the LRS Site was not covered by an Illinois EPA Permit for the storage or disposal of waste.

11. On or about November 16, 2005, LRS reviewed the October 2005 soil analysis test results, and advised 87th and Greenwood and/or IRT that it would accept the soil at the LRS Site.

12. Beginning on or about January 15, 2006, the Respondents arranged for soil from the Excavation Site, containing compounds at levels above background for urban areas, to be brought to the LRS Site, and, for a fee paid by IRT to LRS, deposited on the ground at the LRS Site.

13. Between at least January 15, 2006, and February 15, 2006, the Respondents arranged for approximately 350 loads of soil from the Excavation Site to be dumped at the LRS Site.

14. On February 8, 2006, Illinois EPA inspectors visited the LRS Site, and observed several piles of the soil brought from the Excavation Site. The Illinois EPA inspectors took samples of the soil for analysis.

15. Test results from the soil samples taken by Illinois EPA on February 8, 2006 confirmed that the soil taken from the Excavation Site contained a number of compounds at

levels which exceeded background levels for both the City of Chicago and the Chicago Metropolitan Area. Contaminants identified above background levels in the testing included, but were not limited to, benzo(a)anthracene, carbazole, cadmium, copper, iron, lead, magnesium, beryllium, antimony, and total chromium.

16. At the direction of Illinois EPA, beginning on or about August 15, 2006, the soil from the Excavation site was removed from the LRS Site and taken to a permitted disposal facility in Hammond, Indiana.

17. On April 3, 2006 Illinois EPA sent a Violation Notice ("VN") to LRS by certified mail, return receipt requested. The VN alleged violations of the Act related to the dumping of the excavated soil at the LRS Site.

18. On June 20, 2006, Illinois EPA sent a VN to 87th & Greenwood by certified mail, return receipt requested. The VN alleged violations of the Act related to the dumping of the excavated soil at the LRS Site.

19. On July 16, 2006, Illinois EPA sent a VN to IRT by certified mail, return receipt requested. The VN alleged violations of the Act related to the dumping of the excavated soil at the LRS Site.

20. On July 10, 2006, LRS submitted a proposed Compliance Commitment Agreement ("CCA") to Illinois EPA. On August 8, 2006, Illinois EPA sent a letter rejecting the proposed CCA by certified mail, return receipt requested.

21. On August 10, 2006, 87th & Greenwood submitted a proposed CCA to Illinois EPA. On September 14, 2006, Illinois EPA sent a letter rejecting the proposed CCA by certified mail, return receipt requested.

22. On August 22, 2006, IRT submitted a proposed CCA to Illinois EPA. On September 14, 2006, Illinois EPA sent a letter rejecting the proposed CCA by certified mail, return receipt requested.

23. On June 14, 2007, Illinois EPA sent a Notice of Intent to Pursue Legal Action ("NIPLA") to LRS by certified mail, return receipt requested.

24. On June 14, 2007, Illinois EPA sent a NIPLA to 87th & Greenwood by certified mail, return receipt requested.

25. On June 14, 2007, Illinois EPA sent a NIPLA to IRT by certified mail, return receipt requested.

26. Section 21(a) of the Act, 415 ILCS 5/21(a) (2008), provides, in pertinent part, as follows:

No person shall:

(a) Cause or allow the open dumping of any waste.

* * *

27. Section 3.315 of the Act, 415 ILCS 5/3.315 (2008), provides, as follows:

"PERSON" is an individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

28. 87th and Greenwood, a limited liability company, IRT, a Connecticut corporation, and LRS, a dissolved Illinois corporation, are "persons" as that term is defined by Section 3.315 of the Act, 415 ILCS 5/3.315 (2008).

29. Section 3.305 of the Act, 415 ILCS 5/3.305 (2008), provides, as follows:

“OPEN DUMPING” means the consolidation of refuse from one or more sources at a disposal site that does not fulfill the requirements of a sanitary landfill.

30. Section 3.385 of the Act, 415 ILCS 5/3.385 (2008), provides, as follows:

“REFUSE” means waste.

31. Section 3.535 of the Act, 415 ILCS 5/3.535 (2008), provides, in pertinent part, as follows:

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

32. The soil from the Excavation Site, containing compounds at levels above background for urban areas, which was dumped at the LRS Site, was “discarded material” and therefore “waste” as that term is defined by Section 3.535 of the Act, and therefore also “refuse” as defined by Section 3.385 of the Act, 415 ILCS 5/3.535 and 5/3.385 (2008).

33. Section 3.185 of the Act, 415 ILCS 5/3.185 (2008), 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.

34. Section 3.460 of the Act, 415 ILCS 5/3.460 (2008), provides, as follows:

“Site” means any location, place, tract of land, and facilities, including but not limited to buildings, and improvements used for purposes subject to regulation or control by this Act or regulations thereunder.

35. The Respondents caused and/or allowed waste to be deposited on the LRS Site in such a manner that waste could enter the environment or be emitted into the air. The Site is therefore a “disposal site” as those terms are defined and used in the Act.

36. Section 3.445 of the Act, 415 ILCS 5/3.445 (2008), provides, in pertinent part, as follows:

“SANITARY LANDFILL” means a facility permitted by the Agency for the disposal of waste on land meeting the requirements of the Resource Conservation and Recovery Act, P.L 94-580, and regulations thereunder,....

37. At all times relevant to this complaint, the LRS Site was not permitted by the Illinois EPA for the disposal of waste, and thus did not fulfill the requirements of a sanitary landfill as defined in the Act.

38. By causing and allowing the disposal of waste from the Excavation Site at the LRS Site, a site that did not fulfill the requirements of a sanitary landfill, the Respondents caused and allowed the open dumping of waste, in violation of Section 21(a) of the Act, 415 ILCS 5/21(a) (2008).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, 87th & GREENWOOD LLC, INNOVATIVE RECYCLING TECHNOLOGIES, INC., and LAND RECLAMATION SERVICE, INC., on Count I:

1. Authorizing a hearing in this matter at which time the Respondents will be required to answer the allegations herein;
2. Finding that the Respondents have violated Section 21(a) of the Act;
3. Ordering the Respondents to cease and desist from future violations of Section 21(a) of the Act;

4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000) against the Respondents, jointly and severally, for each violation of Section 21(a) of the Act, and an additional civil penalty of Ten Thousand Dollars (\$10,000) for each day of violation;

5. Ordering the Respondents to pay all costs, pursuant to Section 42(f) of the Act, including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

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

COUNT II
WASTE DISPOSAL AT AN IMPROPER SITE

1-35. Complainant realleges and incorporates by reference herein paragraphs 1 through 25, paragraphs 27 through 28, and paragraphs 30 through 37 of Count I, as paragraphs one through 35 of this Count II.

36. Section 21(e) of the Act, 415 ILCS 5/21(e) (2008) provides, as follows:

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.

37. The Respondents disposed of waste at the LRS Site, a site that was not permitted for waste disposal by the Illinois EPA and therefore did not meet the requirements of the Act. The Respondents thereby violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2008).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondents, 87th & GREENWOOD LLC,

INNOVATIVE RECYCLING TECHNOLOGIES, INC., and LAND RECLAMATION SERVICE, INC., on Count II:

1. Authorizing a hearing in this matter at which time the Respondents will be required to answer the allegations herein;
2. Finding that the Respondents have violated Section 21(e) of the Act;
3. Ordering the Respondents to cease and desist from future violations of Section 21(e) of the Act;
4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000) against the Respondents, jointly and severally, for each violation of Section 21(e) of the Act, and an additional civil penalty of Ten Thousand Dollars (\$10,000) for each day of violation;
5. Ordering the Respondents to pay all costs, pursuant to Section 42(f) of the Act, including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and
6. Granting such other relief as the Board deems appropriate and just.

**VIOLATIONS ALLEGED AGAINST RESPONDENT
LAND RECLAMATION SERVICES, INC. ONLY**

COUNT III

CONDUCTING A WASTE DISPOSAL OPERATION WITHOUT A PERMIT

1-29. Complainant realleges and incorporates by reference herein paragraphs 1 through 17, paragraphs 20, 23, 27 through 28, and paragraphs 30 through 37 of Count I, as paragraphs one through 29 of this Count III.

30. Section 21 of the Act, 415 ILCS 5/21 (2008), provides, in pertinent part, as follows:

No person shall:

* * *

d. Conduct any waste-storage, waste-treatment, or waste-disposal operation:

1. Without a permit granted by the Agency or in violation of any conditions imposed by such permit

* * *

31. Beginning on or about January 15, 2006, Respondent LRS caused and allowed the disposal of approximately 350 truckloads of waste at the LRS Site, and thereby conducted a waste disposal operation, without having applied for or obtained a permit from Illinois EPA.

32. Respondent LRS, by its actions as alleged herein, violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2008).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent LAND RECLAMATION SERVICES, INC., on Count III:

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

2. Finding that Respondent LRS has violated Section 21(d)(1) of the Act;

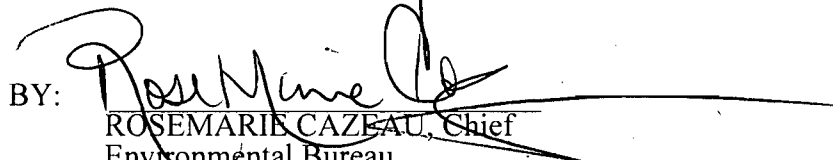
3. Ordering Respondent LRS to cease and desist from future violations of Section 21(d)(1) of the Act;

4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000) against Respondent LRS for each violation of the Section 21(d)(1) of the Act, and an additional civil penalty of Ten Thousand Dollars (\$10,000) for each day of violation;

5. Ordering Respondent LRS to pay all costs, pursuant to Section 42(f) of the Act, including attorney, expert witness, and consultant fees expended by the state in its pursuit of this action; and
6. Granting such other relief as the Board deems appropriate and just.

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: 
ROSEMARIE CAZEAU, Chief
Environmental Bureau
Assistant Attorney General

OF COUNSEL
CHRISTOPHER GRANT
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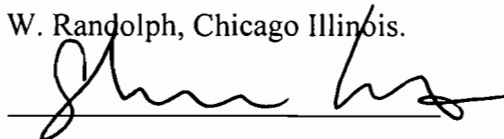
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CERTIFICATE OF SERVICE

I, CHRISTOPHER GRANT, an attorney, do certify that I caused to be served this 19th day of March, 2010 the foregoing Complaint, Appearance, and Notice of Filing upon the persons listed below, by certified mail, by placing same in an envelope bearing sufficient postage with the United States Postal Service located at 100 W. Randolph, Chicago Illinois.



CHRISTOPHER GRANT

Service List:

87th & Greenwood, LLC
c/o Incomp Serv Inc., Registered Agent
2501 Chatham Road, #110
Springfield, Illinois 62704

Land Reclamation Services, Inc.
c/o Illinois Corporation Service, Registered Agent
801 Adlai Stevenson Drive
Springfield, Illinois 62703-4261

Innovative Recycling Technologies, Inc.
c/o Matthew E. Cohn, Esq.
Meckler Bulger Tilson Marick & Pearson, LLP
123 North Wacker Drive, Suite 1800
Chicago, Illinois 60606