

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB NO.
)	(Enforcement- Land)
LOWELL NULL, d/b/a MAB PALLETS,)	
)	
Respondent.)	

NOTICE OF ELECTRONIC FILING

To: See Attached Service List

PLEASE TAKE NOTICE that on December 9, 2010, I electronically filed with the Clerk of the Pollution Control Board of the State of Illinois, c/o John T. Therriault, Assistant Clerk, James R. Thompson Center, 100 W. Randolph St., Ste. 11-500, Chicago, IL 60601, a COMPLAINT and ENTRY OF APPEARANCE, copies of which are 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 (2008), 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: 

RACHEL R. MEDINA
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: December 9, 2010

CERTIFICATE OF SERVICE

I hereby certify that I did on December 9, 2010, cause to be served by Certified Mail, Return Receipt Requested, with postage thereon fully prepaid, by depositing in a United States Post Office Box in Springfield, Illinois, a true and correct copy of the following instruments entitled NOTICE OF ELECTRONIC FILING, COMPLAINT and ENTRY OF APPEARANCE upon the persons listed on the Service List.



RACHEL R. MEDINA
Assistant Attorney General

This filing is submitted on recycled paper.

SERVICE LIST

Lowell Null
d/b/a Mab Pallets
1100 South Second Avenue
Hoopston, IL 60942

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF)
 ILLINOIS,)
)
 Complainant,)
)
 vs.)
)
 LOWELL NULL, d/b/a MAB PALLETS,)
)
 Respondent.)

**PCB No.
(Enforcement-Land)**

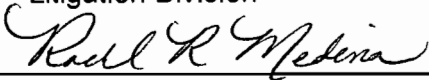
ENTRY OF APPEARANCE

On behalf of the Complainant, PEOPLE OF THE STATE OF ILLINOIS, RACHEL R. MEDINA, Assistant Attorney General of the State of Illinois, hereby enters her 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: 
 RACHEL R. MEDINA
 Environmental Bureau
 Assistant Attorney General

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
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Complainant,)	
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v.)	PCB NO.
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LOWELL NULL, d/b/a)	
MAB PALLETS)	
)	
Respondent.)	

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and at the request of the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, complains of Respondent, LOWELL NULL, d/b/a MAB PALLETS, as follows:

COUNT I

LAND POLLUTION VIOLATIONS

1. This Count 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 (2008).

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 (2008), and charged *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board ("Board").

3. MAB Pallets, LLC ("MAB Pallets") was registered as a domestic limited liability company in Illinois on May 14, 2007, and was involuntarily dissolved on November 14, 2008. MAB Pallets had one LLC member named Lowell Null.

4. Since MAB Pallets dissolved, Lowell Null continues to operate out of the former MAB office at 1100 South Second Avenue, Hoopeston, Vermillion County, Illinois ("site").

5. The site is not permitted by the Illinois EPA as a sanitary landfill.

6. On May 29, 2007, the Illinois EPA conducted an inspection of the site in order to investigate a complaint.

7. On May 29, 2007, there were at least 1,000 cubic yards of broken and shredded pallets, drums, and other refuse on the site.

8. Business records indicate that Lowell Null sold chipped wood and mulch at the site in September of 2007.

9. On January 22, 2008, the Illinois EPA conducted an inspection of the site.

10. On January 22, 2008, there were approximately 8,000 cubic yards of broken and shredded pallets and other refuse on the site. On that date, a wood chipper was on site and, under information and belief, some pallets had been chipped since the May 29, 2007 inspection.

11. Business records indicate that Lowell Null sold chipped wood and mulch at the site in March and April of 2008.

12. On May 19, 2009, the Illinois EPA conducted an inspection of the site.

13. On May 19, 2009, there remained on the site approximately 8,000 cubic yards of broken and shredded pallets, drums, shingles, and other refuse. The wood chipper was no longer present at the site.

14. On May 18, 2010, the Illinois EPA conducted an inspection of the site.

15. On May 18, 2010, a truck loading metals was present. However, there remained on the site approximately 8,000 cubic yards of refuse, including broken and shredded pallets, drums, shingles, and other refuse.

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

No person shall:

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

* * *

(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.

17. Section 3.300 of the Act, 415 ILCS 5/3.300 (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.

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

"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.

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

"Refuse" means waste.

20. Section 3.445 of the Act, 415 ILCS 5/3.445 (2008), provides 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....

21. Section 3.535 of the Act, 415 ILCS 5/3.535 (2008), provides as follows:

"Waste" means any garbage, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility 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....

22. The broken and shredded pallets, drums, shingles, and other refuse remain on the site as garbage or discarded solid materials resulting from a commercial operation and thus are waste under Section 3.535 of the Act, 415 ILCS 5/3.535 (2008).

23. By consolidating waste materials at a site which is neither permitted by the Illinois EPA as a sanitary landfill, nor meets the requirements of the Act and of the regulations and the standards promulgated thereunder, the Respondent is causing or allowing the open dumping of waste in violation of Section 21(a) of the Act, 415 ILCS 5/21(a) (2008).

24. By disposing, storing, or abandoning waste at a site that does not meet the requirements of the Act and of the regulations and the standards promulgated thereunder, the Respondent is violating Section 21(e) of the Act, 415 ILCS 5/21(e) (2008).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the People of the State of Illinois, respectfully request that the Board enter an order against the Respondent, LOWELL NULL, d/b/a MAB PALLETS:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that the Respondent has violated the Act as alleged herein;
- C. Ordering the Respondent to cease and desist from any further violations of the Act;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2008), imposing a civil penalty of not more than the statutory maximum;
- E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2008), awarding the Complainant its costs and reasonable attorney's fees; and
- F. Granting such other relief as the Board may deem appropriate.

COUNT II

AIR POLLUTION VIOLATIONS

1. This Count is brought by the Attorney General on her own motion pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2008).

2-24. Complainant realleges and incorporates by reference herein paragraphs 2 through 24 of Count I as paragraphs 2 through 24 of this Count II.

25. On or before May 18, 2010, the Respondent openly burned waste on the site.

26. On May 18, 2010, the Respondent claimed to have a permit to burn waste.

27. On May 18, 2010, two large burn areas were present on the site, one of which contained a smoldering pile of debris.

28. Section 9 of the Act, 415 ILCS 5/9 (2008), provides in pertinent part, as follows:

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, conduct any salvage operation by open burning, or cause or allow the burning of any refuse in any chamber not specifically designed for the purpose and approved by the Agency pursuant to regulations adopted by the Board under this Act...

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

No person shall:

(p) In violation of subdivision (a) of this Section, cause or allow the open dumping of any waste in a manner which results in any of the following occurrences at the dump site:

(3) open burning

30. Section 3.165 of the Act, 415 ILCS 5/3.165 (2008), provides as follows:

"Contaminant" is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

31. By accumulating broken pieces of pallets and causing or allowing the pallets to be openly burned on the site, the Respondent has also caused or allowed the emission of contaminants into the environment.

32. By causing or allowing the emission of contaminants into the environment so as to cause or tend to cause air pollution, the Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2008).

33. By causing or allowing the open burning of refuse at a site that does not meet the requirements of the Act and of the regulations and the standards promulgated thereunder, the Respondent has violated Section 9(c) of the Act, 415 ILCS 5/9(c) (2008).

34. By causing or allowing the open dumping of waste which resulted in open burning, the Respondent has violated Section 21(p)(3) of the Act, 415 ILCS 5/21(p)(3) (2008).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the People of the State of Illinois, respectfully request that the Board enter an order against the Respondent, LOWELL NULL, d/b/a MAB PALLETS:

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

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

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

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2008), imposing a civil penalty of not more than the statutory maximum;


E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2008), awarding the 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
of the State of Illinois

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

BY: 

THOMAS DAVIS, Chief
Environmental Bureau
Assistant Attorney General

Of Counsel
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Dated: 12/09/10