

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB NO. 15-
)	(Enforcement - Water)
AMERICAN STEAMSHIP COMPANY,)	
a New York corporation,)	
)	
Respondent.)	

NOTICE OF ELECTRONIC FILING

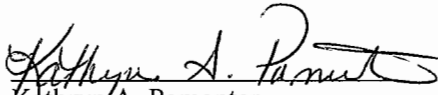
TO: Via Certified Mail	Via Certified Mail
American Steamship Company	American Steamship Company
c/o The Prentice-Hall Corporation System, Inc.	c/o David Foster
Registered Agent	Chief Executive Officer
80 State Street	500 Essjay Road
Albany, New York 12207	Williamsville, New York 14221

PLEASE TAKE NOTICE that on December 19, 2014, we filed the Complaint in this matter with the Office of the Clerk of the Illinois Pollution Control Board, by electronic filing, a true and correct copy of which is hereby served upon you. Financing may be available, through the Illinois Environmental Facilities Financing Act, to correct the violations alleged in the Complaint.

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.

RESPECTUFLLY SUBMITTED,

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

BY: 
Kathryn A. Pamerter
Environmental Bureau
Assistant Attorney General
69 W. Washington Street, #1800
Chicago, Illinois 60602
(312) 814-0608

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COMPLAINT

NOW COMES 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, and complains of Respondent, AMERICAN STEAMSHIP COMPANY, a New York corporation, as follows:

COUNT I

WATER POLLUTION

1. This Complaint is brought on behalf of the People of the State of Illinois, *ex rel.* 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 (2012), against American Steamship Company (“Respondent”).

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 (2012), and charged, *inter alia*, with the duty of enforcing the Act.

3. Respondent has been and is a New York corporation, whose principal place of

business is located in New York. Respondent is not registered with the Illinois Secretary of State's Office as a foreign corporation, though at all times relevant to this Complaint, it has done business in the State of Illinois. Respondent is a Great Lakes vessel transportation company located at 500 Essjay Road, Williamsville, New York, whose Great Lakes fleet consists of self-unloading vessels that range in length from 635-feet to 1,000 feet. Respondent transports a variety of dry-bulk commodities including iron ore pellets, coal and limestone aggregates, and its single-trip vessel-carrying capacity ranges from 24,000 to 81,000 gross tons.

4. Among Respondent's customers is KCBX Terminals Company, a bulk solid materials transloading facility located at 3259 East 100th Street, Chicago, Cook County, Illinois (the "KCBX North Site").

5. On December 19, 2013, Respondent had a vessel docked at the KCBX North Site, and coal was being loaded into the vessel for transport.

6. On December 19, 2013, during the loading process, a ship hand of Respondent utilized a hose to wash coal from the deck of the vessel directly into the Calumet River. On that date, Respondent washed approximately 200 pounds of coal from the vessel's deck into the Calumet River.

7. Section 12(a) of the Act, 415 ILCS 5/12(a) (2012), provides as follows:

No person shall:

- (a) Cause or threaten or allow the discharge of any contaminants into the environment in any State so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources, or so as to violate regulations or standards adopted by the Pollution Control Board under this Act.

8. Section 3.315 of the Act, 415 ILCS 5/3.315 (2012), 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.

9. Respondent is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2012).

10. Section 3.165 of the Act, 415 ILCS 5/3.165 (2012), provides the following definition:

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

11. Coal is a “contaminant” as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2012).

12. Section 3.545 of the Act, 415 ILCS 5/3.545 (2012), provides the following definition:

“Water pollution” is such alteration of the physical, thermal, chemical, biological or radioactive properties of any waters of the State, or such discharge of any contaminant into any waters of the State, as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

13. Section 3.550 of the Act, 415 ILCS 5/3.550 (2012), provides the following definition:

“Waters” means all accumulations of water, surface and underground, natural, and artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon this State.

14. The Calumet River constitutes “waters” as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2012).

15. Respondent's washing of coal from its vessel's deck into the Calumet River constitutes a discharge of contaminants into the waters of the State that tends to cause a nuisance because such discharges may/could negatively impact commercial and recreational uses of the river, including coating boats with such material and causing floating debris and bottom deposits, and may/could render the waters harmful, detrimental or injurious to fish and other aquatic life, thereby constituting water pollution, as that term is defined in Section 3.545 of the Act, 415 ILCS 5/3.545 (2012).

16. By threatening, causing or allowing the discharge of coal into the Calumet River, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2012).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent, American Steamship Company, with respect to this Count I:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2012);
3. Ordering Respondent to cease and desist from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2012);
4. Assessing against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
5. Ordering Respondent to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2012), including attorney, expert witness, and consultant fees expended by the

Complainant in its pursuit of this action; and

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

COUNT II

VIOLATION OF THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM ("NPDES") PERMIT PROGRAM

1-12. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 6, 8 through 11 and 13 through 14 as paragraphs 1 through 12 of this Count II.

13. Section 12(f) of the Act, 415 ILCS 5/12(f) (2012), provides as follows:

No person shall:

* * *

- (f) Cause, threaten or allow the discharge of any contaminant into the waters of the State, as defined herein, including but not limited to, waters to any sewage works, or into any well or from any point source within the State, without an NPDES permit for point source discharges issued by the Agency under Section 39(b) of this Act, or in violation of any term or condition imposed by such permit, or in violation of any NPDES permit filing requirement established under Section 39(b), or in violation of any regulations adopted by the Board or of any order adopted by the Board with respect to the NPDES program.

14. Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a), provides as follows:

- (a) Except as in compliance with the provisions of the Act, Board regulations, and the CWA, and the provisions and conditions of the NPDES permit issued to the discharger, the discharge of any contaminant or pollutant by any person into the waters of the State from a point source or into a well shall be unlawful.

15. Section 301.240 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 301.240, provides the following definition:

“CWA” means the Federal Water Pollution Control Act, as amended, (33 U.S.C. 1251 et seq., Public Law 92-500 enacted by Congress October 18, 1972 as amended by the “Clean Water Act”, Public Law 95-217, enacted December 12, 1977, as amended.)

16. Section 1362(14) of the CWA, 33 U.S.C.A. §1362(14), provides the following definition:

The term “point source” means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include agricultural stormwater discharges and return flows from irrigated agriculture.

17. Respondent’s vessel is a discernible, confined and discrete conveyance, thereby constituting a “point source” as that term is defined in Section 1362(14) of the CWA, 33 USCA 1362(14).

18. On December 19, 2013, Respondent discharged a contaminant into waters of the State from a point source by washing coal from its vessel’s deck into the Calumet River.

19. At no time did Respondent receive an NPDES permit from the Illinois EPA authorizing the discharge of coal from its vessel’s deck into the Calumet River.

20. By causing, threatening or allowing the discharge of contaminants from a point source into a water of the State without an NPDES permit, Respondent violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2012), and Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent, American Steamship Company, with respect to this Count II:


1. Authorizing a hearing in this matter at which time Respondent will be required to

answer the allegations herein;

2. Finding that Respondent has violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2012);
3. Ordering Respondent to cease and desist from any further violations of Section 12(f) of the Act, 415 ILCS 5/12(f) (2012);
4. Assessing a civil penalty of Ten Thousand Dollars (\$10,000.00) against the Respondent for each day during which each violation of the Act and any NPDES program-related regulation of the Board continued;
5. Ordering Respondent to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2012), including attorney, expert witness, and consultant fees expended by the Complainant 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
ex rel. LISA MADIGAN, Attorney General
of the State of Illinois

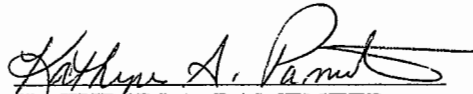
MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

BY: 
ELIZABETH WALLACE, Chief
Environmental Bureau

Of Counsel
Kathryn A. Pamenter
Assistant Attorney General
69 W. Washington Street, 18th Floor
Chicago, Illinois 60602
312.814.0608

CERTIFICATE OF SERVICE

I, Kathryn A. Pamerter, an Assistant Attorney General, do certify that I caused to be served this 19th day of December, 2014, the attached Notice of Electronic Filing and Complaint upon the persons listed on the Notice of Electronic Filing *via certified mail* by placing a true and correct copy in an envelope, first class postage prepaid, and depositing same with the United States Postal Service at 100 West Randolph Street, Chicago, Illinois, at or before the hour of 5:00 p.m.


KATHRYN A. PAMENTER