

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
by KWAME RAOUL, Attorney)
General of the State of Illinois,)
)
Complainant,)
)
v.)
)
SOLVENT SYSTEMS INTERNATIONAL,)
INC., an Illinois corporation,)
)
Respondent.)

PCB No. _____
(Enforcement – Water)

NOTICE OF FILING

To: See attached service list (VIA ELECTRONIC FILING)

PLEASE TAKE NOTICE that on the 24th day of September 2020, I filed with the Clerk of the Illinois Pollution Control Board by electronic filing the following Complaint, a copy of which is attached hereto and are hereby served upon you. You may be required to answer the charges of the Complaint at a hearing before the Board, at a date set by the Board.

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 violations.

PEOPLE OF THE STATE OF ILLINOIS
KWAME RAOUL
Attorney General of the State of Illinois

By: /s/ Arlene R. Haas
ARLENE R. HAAS
Assistant Attorney General
Environmental Bureau North
69 W. Washington Street, Suite 1800
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SERVICE LIST

For the Respondent

Ned S. Robertson, Registered Agent
330 N. Wabash, Suite 1700
Chicago, IL 60611

CERTIFICATE OF SERVICE

I, ARLENE R. HAAS, an Assistant Attorney General, certify that on the 24th day of September 2020, I caused to be served by Certified Mail Return Receipt Requested the foregoing Notice of Filing and Complaint to the person listed on the attached Service List by depositing the same in postage prepaid envelopes with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois 60601.

/s/ Arlene R. Haas _____
ARLENE R. HAAS
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, IL 60602
(312) 814-3153

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COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, on his own motion and at the request of the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, complains of Respondent, SOLVENT SYSTEMS INTERNATIONAL, INC., an Illinois corporation, as follows:

COUNT I

WATER POLLUTION

1. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, on his own motion and at the request of the Illinois Environmental Protection Agency (“Illinois EPA”), against SOLVENT SYSTEMS INTERNATIONAL, INC. (“Solvent Systems”), pursuant to Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2018).

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 (2018), and charged with, *inter alia*, the duty of enforcing the Act.

3. At all times relevant to this Complaint, Solvent Systems has been and is an Illinois corporation.

4. At all times relevant to this Complaint, Solvent Systems owned and operated, and continues to own and operate, a bio-based cleaning products production facility located at 70 King Street, Elk Grove Village, Cook County, Illinois (the "Facility"). Respondent's Facility includes a mixing equipment area and a container and product storage area. Storage and unloading occurs in the Facility's south parking lot, and the Facility has a hookup station, tanker truck, and semi-trailers located outside. There are several stormwater grates throughout the Facility.

5. At all times relevant to this Complaint, Respondent has mixed chemicals with methyl ester process oils, also known as soy, canola, and vegetable process oils, to manufacture its bio-based cleaning products at the Facility.

6. On April 10, 2019, a Metropolitan Water Reclamation District of Greater Chicago ("MWRD") representative contacted the Illinois Emergency Management Agency ("IEMA") to report a release of approximately 40 gallons of spent methyl ester process oils from the Facility.

7. On April 11, 2019, the Illinois EPA Office of Emergency Response ("OER") investigated the release.

8. Methyl ester process oils had been discharged from the Facility on or about April 10, 2019, or such other dates better known to Respondent, onto a concrete pad located at the Facility, which flowed into an adjacent drainage ditch.

9. On April 11, 2019, and such other dates better known to Respondent, standing water and process oils were located in the drainage ditch.

10. At the recommendation of OER, Respondent reported the release to Illinois EPA on April 11, 2019, which is documented in IEMA Hazardous Materials Incident Report No. H-2019-0335.

11. In April 2019, on such specific dates better known to Respondent, Respondent contracted with Future Environmental Inc. (“Future Environmental”) to conduct a cleanup of the spent methyl ester process oils. The cleanup included the removal of contaminated material from the drainage ditch, as well as cleaning of a 4-inch stormwater sewer, and rodding and cleaning of a 40-inch stormwater sewer piping that was clogged with grease and fats. In total, Future Environmental removed 24 yards of contaminated soil and 25,885 gallons of contaminated water from the stormwater sewer and drainage ditch.

12. Section 12(a) of the Act, 415 ILCS 5/12(a) (2018), provides as follows:

No person shall:

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.

13. Section 3.315 of the Act, 415 ILCS 5/3.315 (2018), 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.

14. Solvent Systems is a “person” as that term is defined in Section 3.315 the Act, 415 ILCS 5/3.315 (2018).

15. Section 3.165 of the Act, 415 ILCS 5/3.165 (2018), provides as follows:

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

16. Spent methyl ester process oils and stormwater runoff from the Facility that comes into contact with methyl ester process oils and other materials at the Facility are “contaminants” as that term is defined by Section 3.165 of the Act, 415 ILCS 5/3.165 (2018).

17. Section 3.545 of the Act, 415 ILCS 5/3.545 (2018), provides as follows:

“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.

18. Section 3.550 of the Act, 415 ILCS 5/3.550 (2018), provides as follows:

“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.

19. The water in the drainage ditch, stormwater sewer, groundwater at the Facility, and the groundwater in the vicinity of the Facility are “waters”, as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2018).

20. Solvent System’s poor housekeeping and lack of proper containment of the process oils at the Facility caused or allowed the discharge of spent methyl ester process oils from the Facility on April 10, 2019, or such other dates better known to Respondent.

21. Solvent System’s discharge of spent methyl ester process oils from the Facility on April 10, 2019, or such other dates better known to Respondent, into water in the drainage ditch, stormwater sewer, groundwater at the Facility, and groundwater in the vicinity of the Facility likely rendered such waters harmful or detrimental or injurious to (a) public health, safety or welfare, (b)

domestic, commercial, industrial, agricultural, recreational, or other legitimate uses or (c) livestock, wild animals, birds, fish, or other aquatic life, which therefore constitutes “water pollution,” as that term is defined in 415 ILCS 5/3.545 (2018).

22. By causing, threatening, or allowing the discharge of spent methyl ester process oils into the environment so as to cause or tend to cause water pollution, Solvent Systems violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2018).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent, SOLVENT SYSTEMS INTERNATIONAL, INC., with respect to Count I:

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

2. Finding that Solvent Systems has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2018);

3. Ordering Solvent Systems to cease and desist from any future violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2018);

4. Assessing against Solvent Systems a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of each violation;

5. Ordering Solvent Systems to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2018), including any 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

CREATING A WATER POLLUTION HAZARD

1-20. Complainant realleges and incorporates by reference herein paragraphs 1 through 11 and 13 through 21 of Count I as paragraphs 1 through 20 of this Count II.

21. Section 12(d) of the Act, 415 ILCS 5/12(d) (2018), provides as follows:

No person shall:

* * *

Deposit any contaminants upon the land in such place and manner so as to create a water pollution hazard.

22. By depositing spent methyl ester process oils on the concrete pad at the Facility that flowed into an adjacent drainage ditch and stormwater sewer, Solvent Systems created a water pollution hazard in violation of Section 12(d) of the Act, 415 ILCS 5/12(d) (2018).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests the Board to enter an order in favor of Complainant and against Respondent, SOLVENT SYSTEMS INTERNATIONAL, INC., with respect to Count II:

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

2. Finding that Solvent Systems has violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2018);

3. Ordering Solvent Systems to cease and desist from any future violations of Section 12(d) of the Act, 415 ILCS 5/12(d) (2018);

4. Assessing against Solvent Systems a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, and an additional penalty of Ten Thousand Dollars

(\$10,000.00) for each day of each violation;

5. Ordering Solvent Systems to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2018), including any 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 III

FAILURE TO OBTAIN A GENERAL NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT FOR INDUSTRIAL ACTIVITIES

1-10. Complainant realleges and incorporates by reference herein paragraphs 1 through 5, paragraphs 13 through 16, and paragraph 18 of Count I as paragraphs 1 through 10 of this Count III.

11. On April 12, 2019, an Illinois EPA representative performed an industrial stormwater inspection of the Facility.

12. During the April 12, 2019 inspection, the Illinois EPA representative observed that Solvent Systems stored some of its industrial equipment outdoors and exposed to the elements.

13. Stormwater at the Facility drains into a storm sewer system owned by the MWRD that ultimately discharges to an unnamed tributary to Brairwood Lake (the “Unnamed Tributary”), and the stormwater sewer, Unnamed Tributary, and Brairwood Lake are “waters” as the term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2018) .

14. On April 16, 2019, the Illinois EPA representative notified Solvent Systems that its Facility required coverage under the General NPDES Stormwater Permit for Industrial Activities.

15. In June 25, 2019, the Illinois EPA representative revisited the Facility. At that time, Solvent Systems still had not applied for and obtained coverage under the General NPDES Stormwater Permit for Industrial Activities.

16. On August 14, 2019, Solvent Systems submitted to Illinois EPA its Notice of Intent for coverage under the NPDES Stormwater Permit for Industrial Activities but failed to submit a Stormwater Pollution Prevention Plant (“SWPPP”), a required part of the application.

17. On August 29, 2019, Solvent Systems submitted its SWPPP to Illinois EPA.

18. On September 18, 2019, Illinois EPA issued Solvent Systems coverage under NPDES Permit No. ILR007644, General Storm Water Permit for Industrial Activities.

19. Section 12(f) of the Act, 415 ILCS 5/12(f) (2018), provides as follows:

No person shall:

* * *

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 [National Pollution Discharge Elimination System] 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.

20. Industrial sites are subject to the Act and the rules and regulations promulgated by the Illinois Pollution Control Board (“Board”). The Board’s regulations for water pollution are codified at 35 Ill. Adm. Code, Subtitle C, Chapter 1 (“Board Water Pollution Regulations”).

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

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.

22. The United State Environmental Protection Agency (“USEPA”) has authorized the State of Illinois to issue NPDES permits through the Illinois EPA in compliance with federal regulations, including stormwater discharges by 40 C.F.R. § 122.26, which requires a person to obtain a NPDES permit and to implement a SWPPP for stormwater discharges associated with industrial activity.

23. Section 122.26(a)(1)(ii) of the USEPA NPDES Regulations, 40 C.F.R. § 122.26(a)(1)(ii), provides as follows:

a. Permit Requirement.

(1) Prior to October 1, 1994, discharges composed entirely of storm water shall not be required to obtain a NPDES permit except:

* * *

(ii) A discharge associated with industrial activity;

24. Section 122.26(b)(14) of the USEPA NPDES Regulations, 40 C.F.R. § 122.26(b)(14), includes the following definition:

(b) Definitions.

* * *

(14) Storm water discharge associated with industrial activity means the discharge from any conveyance that is used for collecting and conveying storm water and that is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. ... For the categories of industries identified in this section, the term includes, but is

not limited to, storm water discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process waste waters (as defined at part 401 of this chapter); sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and final products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water. For the purposes of this paragraph, material handling activities include storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product, by-product or waste product. The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with storm water drained from the above described areas. ... The following categories of facilities are considered to be engaging in "industrial activity" for purposes of paragraph (b)(14):

* * *

(ii) Facilities classified within Standard Industrial Classification 24, Industry Group 241 that are a rock crushing gravel washing, log sorting or log storage facilities operated in connection with silvicultural activities defined in 40 CFR 122.27(b)(2)-(3) and Industry Groups 242 through 249; 26 (except 265 and 267), 28 (except 283), 29, 311 32 (except 323), 33, 3441, 373 (not included are all other types of silviculture facilities;

* * *

(vi) Facilities involved in the recycling of materials, including metal scrapyards, battery reclaimers, salvage yards, and automobile junkyards, including

but limited to those classified as Standard Industrial Classification 5015 and 5093;

25. As a bio-based cleaning products producer, Solvent Systems is an operation within Standard Industrial Classification (“SIC”) 5093 - Scrap and Waste Materials, OSHA SIC Manual, and SIC 2869 - Industrial Organic Chemicals, Not Elsewhere Classified, OSHA SIC Manual.¹

26. Solvent Systems operates a bio-based cleaning operation at the Facility classified as SIC 5093 and SIC 2869 as defined in 40 C.F.R. § 122.26(b)(14)(ii) & (vi), and stormwater discharges from the Facility are therefore discharges associated with industrial activity requiring a NPDES permit.

27. By engaging in industrial activities prior to September 18, 2019, or on such dates better known to Respondent, without first obtaining NPDES permit coverage for such operations, Solvent Systems violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2018), 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 the Board to enter an order in favor of Complainant and against Respondent, SOLVENT SYSTEMS INTERNATIONAL, INC., with respect to Count III:

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

2. Finding that Solvent Systems violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2018), and Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a);

¹ See https://www.osha.gov/pls/imis/sic_manual.display?id=993&tab=description; https://www.osha.gov/pls/imis/sic_manual.display?id=1004&tab=description.

3. Ordering Solvent Systems to cease and desist from any future violations of Section 12(f) of the Act, 415 ILCS 5/12(a) (2018), and Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a);

4. Assessing against Solvent Systems a civil penalty of Ten Thousand Dollars (\$10,000.00) for each violation of Section 12(f) of the Act, 415 ILCS 5/12(f), and Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a);

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5. Ordering Solvent Systems to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2018), including any 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
by KWAME RAOUL
Attorney General of the State of Illinois

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

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