

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB No. _____
)	(Water – Enforcement)
CORE CHAMPAIGN DANIEL, LLC,)	
an Illinois limited liability company,)	
)	
Respondent.)	

NOTICE OF FILING

TO: See attached service list (VIA ELECTRONIC FILING)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the following Complaint, a copy of which is attached and 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.

Respectfully submitted,

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

By: s/Natalie Long
NATALIE LONG
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Date: December 18, 2020

THIS FILING IS SUBMITTED ON RECYCLED PAPER

Service List

For the Respondent

Core Champaign Daniel, LLC
c/o Greenberg Traurig, LLP
Attn: Sean W. Bezark
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
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v.)	PCB No. _____
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COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, complains of Respondent, CORE CHAMPAIGN DANIEL, LLC, an Illinois limited liability company, 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” or “Agency”), pursuant to the terms and provisions of 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 by the Illinois General Assembly pursuant to Section 4 of the Act, 415 ILCS 5/4 (2018), and is charged, *inter alia*, with the duty of enforcing the Act.

3. Respondent CORE CHAMPAIGN DANIEL, LLC, an Illinois limited liability company, (“Respondent Core Champaign Daniel”), at all times relevant to this Complaint, was

and is an active limited liability company organized and existing under the laws of the State of Illinois and in good standing with the Illinois Secretary of State.

4. At all times relevant to this Complaint, Respondent Core Champaign Daniel was and is the owner of a building located at 812 South Sixth Street, Champaign, Illinois, 61820 (“Site”), which it leased to a tenant known as Campus Ink. The parcel number for the property is 46-21-18-178-005.

5. On April 15, 2019, a contractor for Core Campus, LLC, d/b/a Core Spaces (“Core Campus”), contacted the Illinois Emergency Management Agency (“Illinois EMA”). The contractor reported the presence of fuel oil in Boneyard Creek (“Creek”). The contractor was performing work at a separate Core Spaces facility located near the Site, and apparently believed the fuel oil had originated at the location where the contractor had been working. The Urbana Fire Department first responded to the report by installing absorbent booms in the Creek to contain the oil sheen.

6. On April 16, 2019, Illinois EPA visited the area of the fuel oil discharge. Upon observing a section of the Creek that flowed west to east, prior to flowing under South Gregory Street, Illinois EPA observed a multi-colored sheen moving on the surface of the water. Likewise, at the bridge upstream of Matthews Avenue, Illinois EPA detected a strong fuel-like odor and a sheen across the entire width of the Creek. Illinois EPA also observed a strong fuel odor emanating from three manholes in the vicinity of the Site.

7. During the Site investigation, Illinois EPA inspectors noticed a young man leaning over to the Creek and touching the water, and cautioned the young man to wash his hands immediately, because the visible sheen on the Creek was from fuel oil.

8. While speaking with a second contractor for Core Campus in the area of the discharge, the second contractor advised Illinois EPA that employees of Campus Ink, the tenant business located at the Site, had reported to a representative of Core Campus a fuel odor in the building and the flow of liquid into a drain in the basement of the building at the Site.

9. After its initial inspection of the Creek, Illinois EPA arrived at the Site, along with a representative of the Champaign Fire Department (“Champaign FD”), and obtained access to the building with the assistance of an agent of Campus Ink. The agent of Campus Ink informed Illinois EPA that Campus Ink had reported the odor and release to a representative of Core Campus.

10. Upon gaining access to the building, two Illinois EPA inspectors smelled a petroleum fuel odor and promptly exited the building. After donning appropriate inspection safety equipment, an Illinois EPA inspector inspected the basement of the building at the Site. He observed an aboveground storage tank that was corroded from rust and was dripping fuel oil, which was migrating across the floor and entering the floor drain. The concentration of volatile organic compounds (“VOCs”) in the air at the top of the stairs registered at 10 parts per million (“ppm”); the VOCs in the air in the basement registered at 85 ppm. The Illinois EPA inspector placed a petroleum absorbent pad under the leak, and replaced a rag that the tenant business had placed in the drain with a rolled-up absorbent pad. A representative of the Champaign FD applied an oil dry product on the floor around the drain to further absorb the oil. After these response actions by Illinois EPA and the Champaign FD, the odor of fuel oil was still noticeable on the ground floor of the building.

11. On April 16, 2019, Illinois EPA discussed the release with a representative of Core Campus. Illinois EPA instructed the representative to report the release to Illinois EMA, and to hire an environmental cleanup company to start remediation work that evening.

12. On April 16, 2019, a representative of Core Campus submitted a report to Illinois EMA describing the release.

13. On April 16, 2019, an Illinois EPA inspector surveyed the Creek, visiting the bridges along the Creek to check on the condition of the Creek. At the bridges at South Coler Avenue, South McCullough Street, and Race Street in Urbana, Illinois, Illinois EPA observed oil sheen and petroleum odor. At the South McCullough Street location, the Illinois EPA inspector spoke with a bystander north of the Creek, who reported that he had smelled an odor there all day.

14. While Illinois EPA was still at the Site on April 16, 2019, a representative of Clean Harbors Environmental Services (“Clean Harbors”), the environmental remediation company selected by Core Campus, called Illinois EPA to inquire what equipment would be needed for remediation. Illinois EPA requested three vacuum trucks, a frac tank, absorbent booms and pads, and oil dry. Locations specified for remediation with the equipment were near the bridges on South Gregory Street and Race Street, and at Wright Street near the intersection with Healy Street, in Urbana, Illinois.

15. On April 17, 2019, Illinois EPA met with a representative of Clean Harbors in Urbana, Illinois. The Clean Harbors representative reported that 5,000 to 6,000 gallons of water and oil had been removed from the Creek. The water in the Creek was clear at that time, with no evidence of a sheen or detectable odor.

16. On April 17, 2019, Illinois EPA and the representative of Clean Harbors further discussed remedial action for the building, including removal and, if necessary, reapplication of oil dry, application of a biodegradable cleaner to the floor, the capture of all rinse water, and the constant monitoring of air quality.

17. On April 17, 2019, Illinois EPA inspected the Creek near the Gregory Street bridge, where fuel oil was observable in one of the booms. Illinois EPA informed a representative of Clean Harbors that the booms in that area needed to be removed, due to the presence of fuel oil on one of them.

18. On April 18, 2019, Clean Harbors removed the aboveground storage tank from the Site and cleaned the basement. An odor was still detectable, but no VOCs were detected.

19. On April 19, 2019, Clean Harbors prepared to remove three strands of booms from the Creek. Illinois EPA requested that Clean Harbors install one strand of new booms, which remained in place until June 13, 2019.

20. Section 12(a) of the Act, 415 ILCS 5/12(a) (2018), 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.

21. 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.

22. Respondent Core Champaign Daniel is a limited liability company. Because Respondent Core Champaign Daniel is a limited liability company, Respondent Core Champaign

Daniel is a “person” as that term is defined by Section 3.315 of the Act, 415 ILCS 5/3.315 (2018).

23. 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.

24. Fuel oil is a “contaminant” as that term is defined by Section 3.165 of the Act, 415 ILCS 5/3.165 (2018).

25. 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.

26. 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.

27. The Creek is a “water” as that term is defined by Section 3.550 of the Act, 415 ILCS 5/3.550 (2018).

28. Respondent caused, threatened, or allowed the discharge of fuel oil into the Creek.

29. Respondent’s discharges of fuel oil into the Creek caused, threatened, or allowed such waters to be rendered 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, and therefore constitute “water pollution” as that term is defined by 415 ILCS 5/3.545 (2018).

30. By causing, threatening, or allowing the discharge of contaminants into the environment so as to cause water pollution, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2018).

PRAAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of the Complainant and against the Respondent CORE CHAMPAIGN DANIEL, LLC:

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

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

C. Ordering Respondent to cease and desist from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2018);

D. Assessing against Respondent a civil penalty of \$50,000.00 for each violation of the Act and the Board's regulations, and an additional civil penalty of \$10,000.00 for each day such violations continued, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2018);

E. Awarding to the Complainant its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2018); and

F. Ordering such other and further relief as the Board deems appropriate and just.

COUNT II
AIR POLLUTION

1.-27. Plaintiff realleges and incorporates by reference herein Paragraphs 1 through 27 of Count I as Paragraphs 1 through 27 of this Count II.

28. Section 9(a) of the Act, 415 ILCS 5/9(a) (2018), provides 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.

29. Section 3.115 of the Act, 415 ILCS 5/3.115 (2018), provides as follows:

“Air pollution” is the presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property.

30. An odor of fuel oil, and VOC gaseous matter, are “contaminants” as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2018).

31. Offensive fuel oil odors and VOCs emanating from the Site, as well as offensive fuel oil odors observed at various locations surrounding the Creek, have been of such magnitude and quantity as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property.

32. By causing or allowing offensive fuel oil odors and VOCs to emanate from the Site and various locations surrounding the Creek in such magnitude and quantity as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property, Respondent has caused air pollution.

33. By causing, or tending to cause, air pollution, Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2018).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of the Complainant and against the Respondent CORE CHAMPAIGN DANIEL, LLC:

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

B. Finding that Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2018);

C. Ordering Respondent to cease and desist from any further violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2018);

D. Assessing against Respondent a civil penalty of \$50,000.00 for each violation of the Act and the Board's regulations, and an additional civil penalty of \$10,000.00 for each day such violations continued, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2018);

E. Awarding to the Complainant its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2018); and

F. Ordering such other and further relief as the Board deems appropriate and just.

COUNT III
OFFENSIVE CONDITIONS

1.-27. Plaintiff realleges and incorporates by reference herein Paragraphs 1 through 27 of Count I as Paragraphs 1 through 27 of this Count III.

28. Section 302.203 of the Illinois Pollution Control Board (“Board”) Water Pollution Regulations, 35 Ill. Adm. Code 302.203, provides as follows:

Waters of the State shall be free from sludge or bottom deposits, floating debris, visible oil, odor, plant or algal growth, color or turbidity of other than natural origin [...]

29. On April 15, 2019, Respondent caused or allowed fuel oil to enter the Creek, causing a visible sheen and odor in the Creek, and thereby creating “offensive conditions” as defined in 35 Ill. Adm. Code 302.203, in violation of Section 302.203 of the Board Water Pollution Regulations.

30. By violating Section 302.203 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 302.203, Respondent thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2018).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of the Complainant and against the Respondent CORE CHAMPAIGN DANIEL, LLC:

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

B. Finding that Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2018), and Section 302.203 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 302.203;

C. Ordering Respondent to cease and desist from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2018), and Section 302.203 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 302.203;

D. Assessing against Respondent a civil penalty of \$50,000.00 for each violation of the Act and the Board's regulations, and an additional civil penalty of \$10,000.00 for each day such violations continued, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2018);

E. Awarding to the Complainant its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2018); and

F. Ordering such other and further 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

By: /s/ Andrew Armstrong
ANDREW B. ARMSTRONG, Chief
Environmental Bureau
Assistant Attorney General

Of Counsel:
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500 South Second Street
Springfield, Illinois 62701
Ph: (217) 782-9034
nlong@atg.state.il.us
ebs@atg.state.il.us

Date: December 18, 2020

CERTIFICATE OF SERVICE

I hereby certify that on December 18, 2020, I served by certified mail, return receipt requested, a true and correct copy of the documents entitled Complaint, Notice of Filing, and Certificate of Service to:

Core Champaign Daniel, LLC
c/o Greenberg Traurig, LLP
Attn: Sean W. Bezark
77 West Wacker Drive
Suite 3100
Chicago, IL 60601
bezarks@gtlaw.com

Core Champaign Daniel, LLC
c/o C T Corporation System
208 S. LaSalle St, Suite 814
Chicago, IL 60604

s/Lilia Brown
Lilia Brown
Administrative Clerk

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this Affidavit of Service are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.

s/Lilia Brown
Lilia Brown
Administrative Secretary