

Docket
LPDR 40-2061

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*NOT ADMITTED IN D.C.

May 5, 1980

Mr. William T. Crow
Nuclear Regulatory Commission
Section Leader
Uranium Fuel Fabrication
Fuel Processing and Fabrication
Room 402, Willste Building
7915 Eastern Avenue
Silver Spring, Maryland 20910

Dear Bill:

I am enclosing a copy of the complaint in the lawsuit against Kerr-McGee. As of last Friday, Kerr-McGee had not been served.

Sincerely,

JEB
John E. Rhinelander

THIS DOCUMENT CONTAINS
POOR QUALITY PAGES

JBR:kak
Enclosure
cc: Robert L. Fonner, Esq. (w/enclosure)

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IN THE CIRCUIT COURT FOR THE 18TH JUDICIAL CIRCUIT
DU PAGE COUNTY, ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,)
)
) Plaintiff,)
) v.)
) No.)
KERR-McGEE CHEMICAL CORPORATION,)
a Delaware corporation,)
) Defendant.)

COMPLAINT FOR INJUNCTION
AND STATUTORY PENALTIES

NOW COMES Plaintiff, PEOPLE OF THE STATE OF ILLINOIS,
by its attorney, WILLIAM J. SCOTT, Attorney General of the State
of Illinois, and complains of Defendant KERR-McGEE CHEMICAL
CORPORATION as follows:

COUNT I

1. This is an action for injunctive relief and a
statutory civil penalty brought by WILLIAM J. SCOTT, Attorney
General of the State of Illinois, on behalf of the PEOPLE OF
THE STATE OF ILLINOIS, pursuant to Section 42 of the Illinois
Environmental Protection Act ("Act"), Ill. Rev. Stat. (1977)
ch. 111 1/2, §1042.

2. Defendant, KERR-McGEE CHEMICAL CORPORATION, is a
Delaware corporation licensed to do business in Illinois and
doing business in DuPage County, Illinois.

3. Defendant owns and manages a site ("site") in the
City of West Chicago, DuPage County, Illinois, of approximately
43 acres. The site is bounded on the north approximately by Ann
Street, on the west approximately by the Elgin, Joliet and Eastern
Railroad, on the south approximately by Roosevelt Road, and on the
northeast approximately by Factory Street and Weyrauch Street.

25000

4. Defendant purchased the site in or around 1967 and ceased manufacturing activities at the site in or around 1973.

5. The site consists of approximately 3 acres containing factory and other buildings ("factory area"), approximately 27 acres used for waste disposal ("disposal area"), and approximately 3 acres between the disposal area and factory area ("intermediate area").

6. Defendant and its predecessor companies operated the site since 1932 to manufacture a variety of chemical compounds containing thorium, a naturally occurring radioactive element, and rare earth elements. The chemical compounds manufactured by Defendant and its predecessors were sold for use in gas light mantles, chemical research and manufacturing, nuclear fuel, color television phosphors, and for other uses.

7. The thorium and rare earth elements were extracted at the site from monazite ore. Extraction and purification of the thorium and rare earths was accomplished by processing with various chemicals, including highly concentrated sulfuric acid, caustic soda, hydrochloric acid, and other highly toxic substances.

8. Manufacturing activities at the site resulted in the production of enormous quantities of process waste, both liquid and solid in nature.

9. Liquid waste was generated at the site at the rate of 400,000 to 600,000 gallons per day, such waste containing approximately 50,000 pounds of dissolved solids. This liquid waste was piped from the factory area to the disposal area and discharged into ponds. The ponds acted as infiltration ponds from which the liquid percolated to the groundwater. Insoluble sediments were deposited on the bottom of the ponds.

10. Solid waste was piled in mounds on the disposal area. Such waste included insoluble sediments removed from the infiltration

ponds, ore residues, and contaminated process equipment such as tanks and drums.

11. At the present time, there are at least 349,000 cubic feet of insoluble process waste remaining in the ponds, at least 722,000 cubic feet of process waste piled in mounds, and at least 110,000 cubic feet of contaminated process equipment scattered on the disposal area. In addition, there are approximately 11,000 cubic feet of rare earth chemical compounds stored in a building in the disposal area which will probably have to be disposed of as waste.

12. Section 21(a) of the Act, Ill. Rev. Stat. (1977) ch. 111 1/2, §1021(a), as amended by P.A. 81-856 and effective January 1, 1980 provides:

[No person shall:]

a. Cause or allow the open dumping of any refuse.

13. The term "open dumping" is defined by Section 3(c) (formerly lettered (h)) of the Act, as amended, as:

[T]he consolidation of refuse from one or more sources at a central disposal site that does not fulfill the requirements of a sanitary landfill.

14. Rules 301, 303, 304, 305, 306, 310, 311, 312, 313, 314, 315 and 318 of Chapter 7 of the Illinois Pollution Control Board ("Board") Rules and Regulations govern the design, operation, and maintenance of sanitary landfills for disposal of wastes, including hazardous and liquid wastes.

15. At all times pertinent hereto, Defendant's design, operation and maintenance of the site, as described in Paragraphs 2 through 11 hereinabove, have not complied with the requirements of the said Board Rules.

16. Since January 1, 1980, the effective date of Section 21(a) of the Act, as amended, Defendant has continuously failed to

comply with the requirements of the said Board Rules and has therefore continuously caused or allowed open dumping of refuse at the site, in violation of such Section.

WHEREFORE Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court:

A. Enter an injunction pursuant to Section 42(d) of the Act, Ill. Rev. Stat. (1977) ch. 111 1/2, §1042(d), ordering Defendant to remove all of the waste located at the site in a manner which shall first be approved by the Illinois Environmental Protection Agency and to dispose of said waste in accordance with the laws of this State.

B. Enter judgment against Defendant, pursuant to Section 42(a) of the Act, Ill. Rev. Stat. (1977) ch. 111 1/2, §1042(a), imposing a civil penalty of \$10,000 for Defendant's violation of the Act and Board regulations thereunder, as set out in Count I hereinabove, and an additional \$1,000 for each day during which such violation has continued.

C. Grant such other and further relief as is appropriate under the circumstances.

COUNT II

1. This is an action for a statutory penalty brought by WILLIAM J. SCOTT, Attorney General of the State of Illinois, on behalf of the PEOPLE OF THE STATE OF ILLINOIS, pursuant to Section 42 of the Illinois Environmental Protection Act ("Act"), Ill. Rev. Stat. (1977) ch. 111 1/2, §1042.

2.-11. As Paragraphs 2 through 11 of Count II of this complaint, Plaintiff realleges and incorporates herein Paragraphs 2 through 11 of Count I of this complaint.

12. Section 21(b) of the Act, Ill. Rev. Stat. (1977) ch. 111 1/2, §1021(b) (current version Ill. Rev. Stat. ch. 111 1/2, §1021(a)), provided:

[No person shall:]

- b. Cause or allow the open dumping of any...refuse in violation of regulations adopted by the [Illinois Pollution] Board;

13. The term "open dumping" is defined by Section 3(c) (formerly lettered (h)) of the Act, as amended, as:

[The consolidation of refuse from one or more sources at a central disposal site that does not fulfill the requirements of a sanitary landfill.

14. Rules 301, 303, 304, 305, 306, 310, 312, 313, 314, 315 and 318 of Chapter 7 of the Board Rules and Regulations govern the design, operation, and maintenance of sanitary landfills for disposal of wastes, including hazardous and liquid wastes.

15. At all times pertinent hereto, Defendant's design, operation, and maintenance of the site, as described in Paragraphs 2 through 11 hereinabove, did not comply with the requirements of the said Board Rules.

16. Since July 27, 1973, the effective date of the said Board Rules, until December 31, 1979, Defendant continuously failed to comply with the requirements of the said Board Rules and therefore continuously caused or allowed open dumping of refuse at the site, in violation of the said Board Rules and of Section 21(b) of the Act(1977).

WHEREFORE Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court:

A. Enter judgment against Defendant, pursuant to Section 42(a) of the Act, Ill. Rev. Stat. (1977) ch. 111 1/2, §1042(a),

imposing a civil penalty of \$10,000 for Defendant's violation of the Act and Board regulations thereunder, as set out in Count II hereinabove, and an additional \$1,000 for each day during which said violation continued.

B. Grant such other and further relief as is appropriate under the circumstances.

COUNT III

1. This is an action for injunctive relief and a statutory civil penalty brought by WILLIAM J. SCOTT, Attorney General of the State of Illinois, on behalf of the PEOPLE OF THE STATE OF ILLINOIS, pursuant to Section 42 of the Illinois Environmental Protection Act ("Act"), Ill. Rev. Stat. (1977) ch. 111 1/2, §1042.

2.-11. As Paragraphs 2 through 11 of Count III of this complaint, Plaintiff realleges and incorporates herein Paragraphs 2 through 11 of Count I of this complaint.

12. Section 21(e) (formerly lettered (f)) of the Act, Ill. Rev. Stat. (1977) ch. 111 1/2, §1021(e), as amended, provides:

[No person shall:]

e. Dispose of any refuse...except at a site or facility which meets the requirements of this Act and regulations thereunder.

13. The term "disposal" is defined by Section 3(e) of the Act, Ill. Rev. Stat. (1977) ch. 111 1/2, §1003(e), as:

[T]he discharge, deposit, injection, dumping, spilling, leaking, or placing of any waste or hazardous waste into or on any land or water 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.

14. Rules 301, 303, 304, 305, 306, 310, 311, 312, 313, 314, 315 and 316 of Chapter 7 of the Board Rules and Regulations govern the design, operation, and maintenance of sanitary landfills for disposal of wastes, including hazardous and liquid wastes.

15. At all times pertinent hereto, Defendant's design, operation, and maintenance of the site, as described in Paragraphs 2 through 11 hereinabove, have not complied with the requirements of the said Board Rules.

16. Since July 27, 1973, the effective date of the said Board Rules, Defendant has continuously disposed of wastes at the site, in violation of the said Board Rules and of Section 21(e) of the Act, as amended.

WHEREFORE Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court:

A. Enter an injunction pursuant to Section 42(d) of the Act, Ill. Rev. Stat. (1977) ch. 111 1/2, §1042(d), ordering Defendant to remove all of the waste located at the site in a manner which shall first be approved by the Illinois Environmental Protection Agency and to dispose of said waste in accordance with the laws of this State.

B. Enter judgment against Defendant, pursuant to Section 42(a) of the Act, Ill. Rev. Stat. (1977), ch. 111 1/2, §1042(a), imposing a civil penalty of \$10,000 for Defendant's violation of the Act and Board regulations thereunder, as set out in Count III hereinabove, and an additional \$1,000 for each day during which such violation has continued.

C. Grant such other and further relief as is appropriate under the circumstances.

COUNT IV

1. This is an action for injunctive relief and a statutory civil penalty brought by WILLIAM J. SCOTT, Attorney General of the State of Illinois, on behalf of the PEOPLE OF THE STATE OF ILLINOIS, pursuant to Section 42 of the Illinois Environmental Protection Act ("Act"), Ill. Rev. Stat. (1977) ch. 111 1/2, §1042.

2.-11. As Paragraphs 2 through 11 of Count IV of this complaint plaintiff realleges and incorporates herein Paragraphs 2 through 11 of Count I of this complaint.

12. The wastes described herein which have been disposed of by Defendant at the site are or include hazardous wastes, in that such wastes have been contaminated by hazardous chemicals and chemical compounds, including but not limited to barium sulfate, sodium sulfate, sodium chloride, sodium fluoride, sodium phosphate, ammonia, ammonium chloride, ammonium sulfate, ammonium nitrate, calcium chloride, ethylhexyl phosphate, ethylenediaminetetraacetic acid, sulfuric acid, and kerosene.

13. Section 21(d) (formerly lettered (e)) of the Act, Ill. Rev. Stat. (1977) ch. 111 1/2, §1021(d), as amended, provides:
[No person shall:]

d. Conduct any refuse-collection or refuse-disposal operations, except for refuse generated by the operator's own activities, without a permit granted by the [Illinois Environmental Protection] Agency upon such conditions, including periodic reports and full access to adequate records and the inspection of facilities, as may be necessary to assure compliance with this Act and with regulations adopted thereunder, after the [Illinois Pollution Control] Board has adopted standards for the location, design, operation, and maintenance of such facilities. The above exception shall not apply to any hazardous waste

14. Chapter 7 of the Board's Rules and Regulations governs waste management and the design, operation and maintenance of sanitary landfills for disposal of wastes, including hazardous and liquid wastes.

15. Rule 204(b) (1) of said Board Rules provides:

(N)o person shall cause or allow the use or operation of any existing solid waste management site without an Operating Permit issued by the Agency not later than one year after the effective date of these Regulations.

16. The said Board Rules became effective on July 27, 1973.

17. Since July 27, 1974, Defendant has continuously conducted refuse-disposal operations at the site without having first obtained a permit from the Illinois Environmental Protection Agency, in violation of Board Rule 202(b)(1) and of Section 21(d) of the Act, as amended.

WHEREFORE Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court:

A. Enter an injunction pursuant to Section 42(d) of the Act, Ill. Rev. Stat. (1977) ch. 111 1/2, §1042(d), ordering Defendant to remove all of the waste located at the site in a manner which shall first be approved by the Illinois Environmental Protection Agency and to dispose of said waste in accordance with the laws of this State.

B. Enter judgment against Defendant, pursuant to Section 42(a) of the Act, Ill. Rev. Stat. (1977) ch. 111 1/2, §1042(a), imposing a civil penalty of \$10,000 for Defendant's violation of the Act as set out in Count IV hereinabove, and an additional \$1,000 for each day during which such violation has continued.

C. Grant such other and further relief as is appropriate under the circumstances.

COUNT V

1. This is an action for a statutory civil penalty brought by WILLIAM J. SCOTT, Attorney General of the State of Illinois, on behalf of the PEOPLE OF THE STATE OF ILLINOIS, pursuant to Section 3.1 of the Illinois Refuse Disposal Law ("Disposal Law"), Ill. Rev. Stat. (1969) ch. 111 1/2, §473.1 (repealed July 1, 1970).

2. The Attorney General is the legal officer of the State of Illinois, having the powers and duties prescribed by law, Ill. Const. Art. 5, §15; and having the power and authority to prevent air, land, and water pollution in Illinois, Ill. Rev. Stat. ch. 14, §12; and having all the power and duties of the Attorney General at common law. This is an action by the Attorney General pursuant to his powers to institute legal proceedings to abate public nuisances and prevent air, land, and water pollution and to protect the health, safety, and welfare of the People of the State of Illinois.

3.-11. As Paragraphs 3 through 11 of Count V of this complaint, Plaintiff realleges and incorporates herein Paragraphs 2 through 10 of Count I of this complaint.

12. Section 1 of the Disposal Law, Ill. Rev. Stat. (1969) ch. 111 1/2 §471, provided in pertinent part:

The Department of Public Health, hereinafter referred to as the Department, shall supervise the operation and maintenance of refuse disposal sites and facilities.... The Department shall prepare and adopt and may revise from time to time minimum standards for the location, design, construction, sanitation, operation, maintenance and discontinuance of the operation of refuse disposal sites and facilities and shall adopt such rules and regulations relating to the operation, maintenance, and discontinuance of the operation of refuse disposal sites and facilities as it considers necessary from time to time to carry out this Act.

13. Section 2 of the Disposal Law, Ill. Rev. Stat. (1969) ch. 111 1/2, §472, provided in pertinent part:

After the Department has promulgated minimum standards for the location, design, construction, operation, maintenance and discontinuance of the operation of refuse disposal sites and facilities pursuant to Section 1, and except as provided in Section 6 of this Act, no person, firm or corporation,

whether public or private, may establish, maintain, conduct or operate a refuse disposal site or facility without first registering that site or facility with the Department. . . .

14. The Illinois Department of Public Health promulgated Rules and Regulations for Refuse Disposal Sites and Facilities ("IDPH Rules") pursuant to the Disposal Law on March 22, 1966.

15. IDPH Rule 1.01 provided:

All refuse disposal sites or facilities shall be registered with the Illinois Department of Public Health on forms to be provided by the Department.

16. IDPH Rule 3.04 provided:

Open dumping is prohibited.

17. Articles IV and V of the IDPH Rules governed the standards, operation, and maintenance of sanitary landfills.

18. IDPH Rule 5.08 provided:

[L]iquid or hazardous substances shall not be discharged to a sanitary landfill until written approval has been obtained from the Department.

19. Section 49 of the Illinois Environmental Protection Act, Ill. Rev. Stat. ch. 111 1/2, §1049 (1970) provides:

b. All proceedings respecting acts done before the effective date of this Act shall be determined in accordance with the law and regulations in force at the time such acts occurred. All proceedings instituted for actions taken after the effective date of this Act shall be governed by this Act.

c. All rules and regulations of the . . . Department of Public Health relating to subjects embraced within this Act shall remain in full force and effect until repealed, amended, or superseded by regulations under this Act.

20. From approximately 1967 until July 27, 1973, the date of the supercession of the IDPH rules by Chapter 7 of the Board's Rules and Regulations governing waste disposal, Defendant continuously failed to register its disposal facilities with the Department of Public Health, in violation of the Disposal Law and IDPH Rule 1.01, and failed to dispose of its wastes, including liquid and hazardous wastes, in accordance with the IDPH Rules cited hereinabove, in violation of such Rules.

WHEREFORE Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court:

A. Enter judgment against Defendant, pursuant to Section 3.1 of the Disposal Law, Ill. Rev. Stat. (1969) ch. 111 1/2, §473.1, imposing a civil penalty of \$100 per day for each day during which Defendant's violations of the Disposal Law and Department rules thereunder, as set out in Count V hereinabove, continued.

B. Grant such other and further relief as is appropriate under the circumstances.

COUNT VI

1. This is an action for injunctive relief and a statutory civil penalty brought by WILLIAM J. SCOTT, Attorney General of the State of Illinois, on behalf of the PEOPLE OF THE STATE OF ILLINOIS, pursuant to Section 42 of the Illinois Environmental Protection Act ("Act"), Ill. Rev. Stat. (1977) ch. 111 1/2, §1042.

2.-11. As Paragraphs 2 through 11 of Count VI of this complaint, Plaintiff realleges and incorporates herein Paragraphs 2 through 11 of Count I of this complaint.

12. Section 12(d) of the Act, Ill. Rev. Stat. (1977) ch. 111 1/2, §1012(d), provides:

[No person shall:]

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

13. The term "contaminant" is defined by Section 3(d) of the Act; Ill. Rev. Stat. (1977) ch. 111 1/2, §1003(d), as:

[A]ny solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

14. The term "water pollution" is defined by Section 3(hh) (formerly lettered (n)) of the Act, Ill. Rev. Stat. (1977) ch. 111 1/2, §1003(hh), as amended, as:

[S]uch 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.

15. During the time relevant herein, Defendant has deposited upon the site liquid wastes contaminated by various chemicals and chemical compounds, such chemicals and chemical compounds including but not limited to barium sulfate, sodium sulfate, sodium chloride, sodium fluoride, sodium phosphate, ammonia, ammonium chloride, ammonium sulfate, ammonium nitrate, calcium chloride, ethylhexyl phosphate, ethylenediaminetetraacetic acid, sulfuric acid, and kerosene.

16. The depositing of such chemicals and chemical compounds created and continues to create a serious pollution hazard to the ground and surface waters of the State of Illinois.

17. The pollution hazard to the ground water consists in the fact that the millions of gallons of liquid wastes deposited into the ponds at the disposal site have over the years infiltrated into the ground, threatening the water table. In addition, rain

and melting snow have percolated, and continue to percolate, through the accumulations of solid waste at the disposal site, thereby becoming contaminated and infiltrating into the ground, threatening the water table. The water table under the site is generally only several feet below the surface. The water table is hydraulically connected to an aquifer lying deeper below the surface; this aquifer is used as a water source by households in unincorporated areas primarily west and southwest of the site and as a standby water source for the City of West Chicago.

18. The pollution hazard to the surface water of Illinois consists in the fact that water on the surface of the disposal site, resulting from rainfall and melting snow, becomes contaminated by the pollutants thereon and, via a storm sewer originating just north of the site, is discharged into Kress Creek. Kress Creek is a tributary to the DuPage River.

19. Since July 1, 1970, the effective date of the Act, Defendant has continuously created a water pollution hazard by its depositing of contaminants on the site, in violation of Section 12(d) of the Act (1977).

WHEREFORE Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court:

A. Enter an injunction pursuant to Section 42(d) of the Act, Ill. Rev. Stat. (1977) ch. 111 1/2, §1042(d), ordering Defendant to remove all of the wastes located at the site in a manner which shall first be approved by the Illinois Environmental Protection Agency and to dispose of said waste in accordance with the laws of this State.

B. Enter judgment against Defendant, pursuant to Section 42(a) of the Act, Ill. Rev. Stat. (1977) ch. 111 1/2, §1042(a), imposing a civil penalty of \$10,000 for Defendant's violation of the Act, as set out in Count VI hereinabove, and an additional

\$1,000 for each day during which said violation has continued.

C. Grant such other and further relief as is appropriate under the circumstances.

COUNT VII

1. This is an action for injunctive relief and a statutory civil penalty brought by WILLIAM J. SCOTT, Attorney General of the State of Illinois, on behalf of the PEOPLE OF THE STATE OF ILLINOIS, pursuant to Section 42 of the Illinois Environmental Protection Act, Ill. Rev. Stat. (1977) ch. 111 1/2, §1042.

2.-11. As Paragraphs 2 through 11 of Count VII of this complaint, Plaintiff realleges and incorporates herein Paragraphs 2 through 11 of Count I of this complaint.

12. Section 12(a) of the Act, Ill. Rev. Stat. (1977) ch. 111 1/2, §1012(a), provides:

[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.

13. Chapter 3 of the Board's Rules and Regulations pertains to water pollution, and, inter alia, establishes standards for chemical constituents allowed in waters of the State of Illinois, including underground and surface waters.

14. Rule 207 of said Board Rules and Regulations provides:

The underground waters of Illinois which are a present or potential source of water for public or domestic supply shall not be used as a source of water for any other purpose except as provided in this rule.

15. The underground waters at and around the site are a present and potential source of water for public and food processing supply.

16. Rule 204 of said Board Rules and Regulations prescribes Public and Food Processing Water Supply Standards. Under such Rule the following levels of chemical constituents in such water supplies shall not be exceeded:

Chloride:	250 mg/l
Manganese:	.05 mg/l
Sulfates:	250 mg/l
Total Dissolved Solids:	500 mg/l
Selenium:	.01 mg/l

17. Rule 203 of said Board Rules and Regulations prescribes General Standards. Under such Rule the level of fluoride in underground water shall not exceed 1.4 mg/l.

18. Part IV of the said Board Rules and Regulations prescribes the maximum concentrations of various contaminants that may be discharged to waters of the State of Illinois. Under Rule 408 of such Part IV, the following levels of contaminants shall not be exceeded in an effluent:

Fluoride:	15 mg/l
Manganese:	1 mg/l

19. In or around December 1976, Defendant caused or allowed the underground water at the disposal site to contain concentrations of chloride in excess of 250 mg/l, in violation of Board Rule 204.

20. In or around December 1976, Defendant caused or allowed the underground water at the disposal site to contain concentrations of fluoride in excess of 1.4 mg/l, in violation of Board Rule 203.

21. In or around December 1976, Defendant caused or allowed the underground water at the disposal site to contain

concentrations of manganese in excess of .05 mg/l, in violation of Board Rule 204.

22. In or around December 1976, Defendant caused or allowed the underground water at the disposal site to contain concentrations of sulfates in excess of 250 mg/l, in violation of Board Rule 204.

23. In or around December 1976, Defendant caused or allowed the underground water at the disposal site to contain concentrations of total dissolved solids in excess of 500 mg/l, in violation of Board Rule 204.

24. In or around October 1976, Defendant caused or allowed the underground water at the disposal site to contain concentrations of selenium in excess of .01 mg/l, in violation of Board Rule 204.

25. Water on the site, resulting from rainfall and melting snow, enters and at all times pertinent herein has entered a storm sewer originating just north of the site and is discharged therefrom into Kress Creek, a tributary to the DuPage River.

26. In or around March 1974, September 1974, June 1975, and July 1976, Defendant caused or allowed water to be discharged via the said storm sewer into Kress Creek which contained concentrations of fluoride in excess of 15 mg/l, in violation of Board Rule 408.

27. In or around September 1976, Defendant caused or allowed water to be discharged via the said storm sewer into Kress Creek which contained a concentration of manganese in excess of 1 mg/l, in violation of Board Rule 408.

WHEREFORE Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court:

A. Enter an injunction pursuant to Section 42(d) of the Act, Ill. Rev. Stat. (1977), ch. 111 1/2, §1042(d), ordering Defendant to cease and desist from any further violations of the Act and Board regulations thereunder, as set out in Count VII hereinabove.

B. Enter judgment against Defendant, pursuant to Section 42(a) of the Act, Ill. Rev. Stat. (1977) ch. 111 1/2, §1042(a), imposing a civil penalty of \$10,000 for each of Defendant's violations of the Act and Board regulations thereunder, as set out in Count VII hereinabove.

C. Grant such other and further relief as is appropriate under the circumstances.

COUNT VIII

1. This is an action for an injunction brought by WILLIAM J. SCOTT, Attorney General of the State of Illinois, on behalf of the PEOPLE OF THE STATE OF ILLINOIS, pursuant to the Illinois Public Nuisance Act, Ill. Rev. Stat. (1977) ch. 100 1/2, §25 ("Nuisance Act").

2. The Attorney General is the legal officer of the State of Illinois, having the powers and duties prescribed by law, Ill. Const. Art. 5, §15; and having the power and authority to prevent air, land, and water pollution in Illinois, Ill. Rev. Stat. ch. 14, §12; and having all the powers and duties of the Attorney General at common law. This is an action by the Attorney General pursuant to his powers to institute legal proceedings to abate public nuisances and prevent air, land and water pollution and to protect the health, safety, and welfare of the People of the State of Illinois.

3. The Nuisance Act provides:

It is a public nuisance:

1. To cause or suffer...filth or noisome substances to be collected, deposited, or to remain in any place, to the prejudice of others.

3. To corrupt or render unwholesome or impure the water of any spring, river, stream, pond or lake, to the injury or prejudice of others.

4.-13. As Paragraphs 4 through 13 of Count VIII of this complaint, Plaintiff realleges and incorporates herein Paragraphs 2 through 11 of Count I of this complaint.

14.-17. As Paragraphs 14 through 17 of Count VIII of this complaint, Plaintiff realleges and incorporates herein Paragraphs 15 through 18 of Count VI of this complaint.

18.-26. As Paragraphs 18 through 26 of Count VIII of this complaint, Plaintiff realleges and incorporates herein Paragraphs 19 through 27 of Count VII of this complaint.

27. On various dates since approximately 1967 including but not limited to the dates set forth in Paragraphs 19 through 27 of Count VII, and continuing until the present, Defendant has operated and maintained the site in such manner as to constitute a public nuisance, in that noisome substances have been caused or suffered to be collected and deposited and to remain at the site, and waters of Illinois have been corrupted and rendered impure and unwholesome, to the injury and prejudice of People of the State of Illinois, in violation of the Nuisance Law. Further, unless such public nuisance is abated it will continue to so prejudice and injure the People of the State of Illinois.