

**IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT
WINNEBAGO COUNTY, ILLINOIS
CHANCERY DIVISION**

PEOPLE OF THE STATE OF ILLINOIS,)
ex rel. KWAME RAOUL, Attorney)
General of the State Illinois, and *ex rel.*)
J. HANLEY, State’s Attorney)
of Winnebago County, Illinois,)
)
Plaintiff,) No. 2021-CH-0000115
)
v.)
)
CHEMTOOL, INCORPORATED,)
a Delaware corporation,)
)
Defendant.)

VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF AND CIVIL PENALTIES

Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* 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”) and the ILLINOIS EMERGENCY MANAGEMENT AGENCY (“IEMA”), and *ex rel.* J. HANLEY, States Attorney of Winnebago County, Illinois, on his own motion, complains of Defendant, CHEMTOOL, INCORPORATED, a Delaware corporation (“Defendant”), as follows:

**COUNT I
SUBSTANTIAL DANGER TO THE ENVIRONMENT,
PUBLIC HEALTH AND WELFARE**

1. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* KWAME RAOUL, Attorney General of the State of Illinois, on his own motion and at the request of the Illinois EPA, and *ex rel.* J. HANLEY, States Attorney of Winnebago County, Illinois, on his own motion, against Defendant pursuant to the terms and provisions of Section

43(a) of the Illinois Environmental Protection Act (the “Act”), 415 ILCS 5/43(a) (2020), and is an action to restrain a substantial danger to public health and welfare and to the environment.

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 (2020), and charged, *inter alia*, with the duty of enforcing the Act.

3. IEMA is an administrative agency of the State of Illinois created pursuant to the Illinois Emergency Management Agency Act, 20 ILCS 3305/, and charged with the duty of coordinating the overall emergency management program of the State and with private organizations, political subdivisions, and the federal government. IEMA also is responsible for implementation of Title III of the Superfund Amendments and Reauthorization Act of 1986.

4. At all times relevant to this Complaint, Defendant was and is a Delaware corporation registered to do business in Illinois and is in good standing.

5. Defendant owns and operates a grease, lubricating oil, and fluids manufacturing plant located at 1165 Prairie Hill Road, Rockton, Winnebago County, Illinois (“Facility” or “Site”).

6. The Facility is located approximately 700 feet from the Rock River, and is located near and adjacent to residential areas.

7. Numerous emission units exist at the Site. The Facility housed several tanks of various greases, oils, additives, and other fluids. In excess of four million gallons of crude oil were stored at the Facility.

8. The Facility was built on a Superfund site where pump and treat activities are still taking place to treat contaminants in the groundwater.

9. On June 14, 2021, at approximately 7:00 a.m., a fire broke out at the Facility (“Fire”).

10. The Fire resulted in thick, heavy black smoke that could be observed fifty-six miles away from the Facility. A plume of smoke from the fire extended for several miles downwind of the Facility.

11. The Rockton Fire Department, Rockford Fire Department, and numerous other Fire Departments from Illinois and Wisconsin responded to the large, six-alarm Fire at the Facility. The Facility quickly became fully-engulfed in the Fire and had several explosions.

12. As of the date of filing of this Verified Complaint, there are approximately four storage tanks at the Facility with an estimated 100,000 gallons of petroleum product. Given the large volume of petroleum product in containers with compromised integrity due to the Fire, there is a substantial threat of discharge of oil to land and a navigable waterway, the Rock River.

13. Due to concerns for health impacts due to the Fire, the Rockton, Illinois Fire Department issued an evacuation order for all businesses and residences within a one-mile radius of the Facility. A shelter was opened for evacuees at a local area school. Residents within three miles of the Facility were told to wear masks when outside. The evacuation order began June 14, 2021, and was lifted on June 18, 2021.

14. The Fire burned for several days, and by June 17, 2021, the Fire was reduced. However, additional flare-ups continued to occur through June 19, 2021, which at times again caused heavy haze and smoke at the Facility. A number of hot spots remained at the Site through at least June 19, 2021.

15. From June 14, 2021, and continuing to approximately June 24, 2021, the United States Environmental Protection Agency (“U.S. EPA”) conducted stationary and roaming air monitoring near the Facility and in nearby neighborhoods.

16. On June 15, 2021, Defendant initially used fluorinated firefighting foam to combat the Fire that may contain Perfluorooctanoic acid (PFOA), and the foam can also break down into Perfluorohexanoic acid (PFHxA) and potentially other Per- and Polyfluoroalkyl Substances (PFAS) analytes. After approximately three hours, Defendant switched to a non-fluorinated firefighting foam.

17. Fire suppression water and firefighting foam flowed out of the Facility structures onto the surrounding land. Defendant built interceptor trenches on the southern and western sides of the property to contain runoff of foam and other material from firefighting efforts at the Facility. Vacuum trucks were deployed to remove fire suppression water and foam runoff from trenches and at the Site.

18. As of the date of filing of this Verified Complaint, frac tanks and trucks are being used to store liquids from the Site and Fire. The contents of the tanks must be characterized for disposal before being disposed in accordance with state and federal regulations.

19. From approximately June 17, 2021 through July 2, 2021, absorbent booms, which are used to stop and prevent any spill from traveling further, were deployed by the Illinois EPA and/or Defendant to further protect the Rock River.

20. The Illinois EPA conducted water quality testing of the Rock River following the Fire. Illinois EPA also conducted testing of the groundwater wells that provide drinking water to the Rockton community water supply, as well as Rockton’s elevated water storage tower.

21. On June 17, 2021, a release of non-PFAS containing foam occurred due to backpressure in one of the fire hoses after the pump was turned off, but a valve was open. Foam traveled to the Rock River where firefighting foam was visible on the Rock River. Booms were deployed to contain the foam on the Rock River and a vacuum truck removed foam from the surface of the water.

22. Debris, ash and other material potentially resulting from the Fire fell onto buildings, residences, yards and grounds in the vicinity of the Fire.

23. After the Fire, Illinois EPA took a variety of samples including ash, wipe, runoff, drinking water, and river samples around the Site and in the immediate area.

24. The Fire resulted in the emission of particulate matter, smoke and potentially other unknown contaminants into the atmosphere.

25. As of the date of filing of this Verified Complaint, a complete engineering analysis of the events leading to the Fire has not been performed and the root cause of the Fire has not been conclusively determined.

26. As of the date of filing of this Verified Complaint, Defendant has not provided Plaintiff the amount of material released into the air, the amount of material released onto the ground, nor the amount of material released to groundwater or the Rock River as a result of the Fire and/or firefighting activities.

27. As of the date of filing of this Verified Complaint, product remains in unstable tanks and the land at the Site is heavily contaminated with runoff from firefighting efforts.

28. Section 43(a) of the Act, 415 ILCS 5/43(a) (2020), provides in pertinent part as follows:

- (a) In circumstances of substantial danger to the environment or to the public health of persons or to the welfare of persons where such

danger is to the livelihood of such persons, the State's Attorney or Attorney General, upon request of the Agency or on his own motion, may institute a civil action for an immediate injunction to halt any discharge or other activity causing or contributing to the danger or to require such other action as may be necessary. The court may issue an ex parte order and shall schedule a hearing on the matter not later than 3 working days from the date of injunction.

29. While the Fire burned, smoke, particulate matter, and potentially other unknown contaminants were released into the air, and the fire suppression water and foam runoff deposited on the ground continue to pose a public health hazard and threaten to impact the Rock River and groundwater.

30. The large volume of petroleum product in containers with compromised integrity and the land at the Site being heavily contaminated with firefighting runoff pose a substantial threat of discharge of oil and other contaminants to a navigable waterway, the Rock River, and pose a public health hazard and threaten to impact the Rock River and area groundwater.

31. By releasing smoke, particulate matter and potentially other unknown contaminants into the environment, by causing firefighting foam to be discharged to the Rock River, by depositing firefighting water runoff and foam runoff onto the ground, and by allowing the continued storage of petroleum product in an unsafe manner at the Facility, Defendant created and is continuing to allow circumstances of substantial danger to the environment and to public health and welfare.

32. The substantial danger alleged herein will continue or reoccur unless and until this Court grants equitable relief in the form of immediate, preliminary and, after trial, permanent injunctive relief.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Court grant an immediate and preliminary injunction in favor of Plaintiff, and against Defendant, CHEMTOOL, INCORPORATED:

1. Finding that Defendant created and is maintaining a substantial danger to the environment and public health and welfare;

2. Enjoining Defendant from creating any further substantial endangerment pursuant to Section 43(a) of the Act, 415 ILCS 5/43(a) (2020);

3. Ordering Defendant to immediately take all necessary actions to contain and prevent the discharge or release of firefighting water, wastewater runoff, petroleum product and any other contaminants as a result of the Fire and to undertake all necessary corrective action that will result in a final and permanent abatement;

4. Ordering Defendant, pursuant to 415 ILCS 5/42(f) (2020), to pay all costs, including oversight, sampling and clean-up costs, and attorney, expert witness and consultant fees expended by the Plaintiff in its pursuit of this action; and

5. Granting such other relief as this Court deems appropriate and just.

COUNT II
AIR POLLUTION

1. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, *ex. rel.* KWAME RAOUL, Attorney General of the State of Illinois, on his own motion and at the request of the Illinois EPA, and *ex. rel.* J. HANLEY, State's Attorney of Winnebago County, Illinois, on his own motion, pursuant to Section 42(d) and (e) of the Act, 415 ILCS 5/42 (d) and (e) (2020).

2-27. Plaintiff realleges and incorporates by reference herein paragraphs 2 through 27 of Count I as paragraphs 2 through 27 of this Count II.

28. Section 9(a) of the Act, 415 ILCS 5/9(a) (2020), 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 201.141 of the Illinois Pollution Control Board (“Board”) Air Pollution Regulations, 35 Ill. Adm. Code 201.141, provides as follows:

No person shall cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as, either alone or in combination with contaminants from other sources, to cause or tend to cause air pollution in Illinois, or so as to violate the provisions of this Chapter, or so as to prevent the attainment or maintenance of any applicable ambient air quality standard.

30. Section 3.165 of the Act, 415 ILCS 5/3.615 (2020), provides the following definition:

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

31. The smoke, particulate matter, and potentially other unknown materials discharged and emitted into the air from the Facility as a result of the Fire are each a “contaminant” as that term is defined by Section 3.165 of the Act, 415 ILCS 5/3.615 (2020).

32. Section 3.315 of the Act, 415 ILCS 5/3.315 (2020), provides the following definition:

“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.

33. Defendant, a corporation, is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2020).

34. Section 3.115 of the Act, 415 ILCS 5/3.115 (2020), provides the following definition:

“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.

35. The release of smoke, particulate matter and the potential release of other unknown contaminants into the air at the Facility from June 14, 2021, at approximately 7:00 a.m., through at least June 19, 2021, where they created a risk of injury to human, plant, and/or animal life, to health, damaged property and threatened to unreasonably interfere with the enjoyment of life or property, constitutes “air pollution” as that term is defined in Section 3.115 of the Act, 415 ILCS 5/3.115 (2020).

36. By causing or threatening the release of airborne contaminants in the form of smoke, particulate matter and potentially other unknown contaminants from the Facility on June 14, 2021, and continuing through at least June 19, 2021, Defendant caused, threatened, or allowed air pollution in Illinois, and thereby violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2020), and Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141.

37. Violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary and, after a trial, permanent injunctive relief.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter a preliminary and, after a trial, permanent injunction and an order in favor of Plaintiff and against Defendant, CHEMTOOL, INCORPORATED:

1. Finding that Defendant has violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2020), and Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141;

2. Enjoining Defendant from any further violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2020), and Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141;

3. Ordering Defendant to undertake all necessary corrective action that will result in a final and permanent abatement of the violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2020), and Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141;

4. Assessing against Defendant, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2020), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of the Act and pertinent regulations, and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Ordering Defendant, pursuant to 415 ILCS 5/42(f) (2020), to pay all costs, including oversight, sampling and clean-up costs, and attorney, expert witness and consultant fees expended by the Plaintiff in its pursuit of this action; and

6. Granting such other relief as this Court deems appropriate and just.

COUNT III
WATER POLLUTION

1. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* KWAME RAOUL, Attorney General of the State of Illinois, on his own motion, and *ex rel.* J. HANLEY, State's Attorney of Winnebago County, Illinois, on his own motion, pursuant to Section 42(d) and (e) of the Act, 415 ILCS 5/42(d) and (e) (2020).

2-27. Plaintiff realleges and incorporates by reference herein paragraphs 2 through 27 of Count I as paragraphs 2 through 27 of this Count III.

28-30. Plaintiff realleges and incorporates by reference herein paragraphs 30, 32 and 33 of Count II as paragraphs 28 through 30 of this Count III.

31. Section 12(a) of the Act, 415 ILCS 5/12(a) (2020), 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.

32. The firefighting foam is a “contaminant” as that term is defined by Section 3.165 of the Act, 415 ILCS 5/3.165 (2020).

33. Section 3.550 of the Act, 415 ILCS 5/3.555 (2020), 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 the State.

34. The Rock River is a “waters” of the State of Illinois as that term is defined by Section 3.550 of the Act, 415 ILCS 5/3.555 (2020).

35. Section 3.545 of the Act, 415 ILCS 5/3.545 (2020), 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 domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

36. Defendant’s release of firefighting foam into the Rock River altered the physical and chemical properties of the Rock River and rendered these waters harmful or detrimental or injurious to public health, safety or welfare, and created a nuisance. Defendant’s releases thereby caused or tended to cause “water pollution” as defined by Section 3.545 of the Act, 415 ILCS 5/3.545 (2020).

37. By causing or allowing the discharge of firefighting foam into waters of the State of Illinois, Defendant caused, threatened, and allowed the discharge of contaminants into the environment so as to cause or tend to cause water pollution in Illinois, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

38. Violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary and, after a trial, permanent injunctive relief.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter a preliminary and, after a trial, permanent injunction and an order in favor of Plaintiff and against Defendant, CHEMTOOL, INCORPORATED:

1. Finding that Defendant has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020);
2. Enjoining Defendant from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2020);
3. Ordering Defendant to undertake all necessary corrective action that will result in a final and permanent abatement of the violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2020);
4. Assessing against Defendant, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2020), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of the Act, and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Ordering Defendant, pursuant to 415 ILCS 5/42(f) (2020), to pay all costs, including oversight, sampling and clean-up costs, and attorney, expert witness and consultant fees expended by the Plaintiff in its pursuit of this action; and

6. Granting such other relief as this Court deems appropriate and just.

COUNT IV
CREATING A WATER POLLUTION HAZARD

1-35. Plaintiff realleges and incorporates by reference herein paragraphs 2 through 27 of Count I, paragraphs 30, 32 and 33 of Count II, and paragraphs 1, and 31 through 35 of Count III, as paragraphs 1 through 35 of this Count IV.

36. Section 12(d) of the Act, 415 ILCS 5/12(d) (2020), provides as follows:

No person shall:

* * *

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

* * *

37. By depositing fire suppression water and firefighting foam, each a “contaminant” defined by Section 3.165 of the Act, 415 ILCS 5/3.165 (2020), onto the land in a place and manner that the contaminants could be carried by storm water or fire suppressant water into the Rock River, and/or into the groundwater, Defendant created a water pollution hazard and thereby violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020).

38. Violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary and, after a trial, permanent injunctive relief.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter a preliminary and, after a trial, permanent injunction and an order in favor of Plaintiff and against Defendant, CHEMTOOL, INCORPORATED:

1. Finding that Defendant has violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020);

2. Enjoining Defendant from any further violations of Section 12(d) of the Act, 415 ILCS 5/12(d) (2020);

3. Ordering Defendant to undertake all necessary corrective action that will result in a final and permanent abatement of the violations of Section 12(d) of the Act, 415 ILCS 5/12(d) (2020);

4. Assessing against Defendant, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2020), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of the Act, and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Ordering Defendant, pursuant to 415 ILCS 5/42(f) (2020), to pay all costs, including oversight, sampling and clean-up costs, and attorney, expert witness and consultant fees expended by the Plaintiff in its pursuit of this action; and

6. Granting such other relief as this Court deems appropriate and just.

COUNT V
UNAUTHORIZED WASTE DISPOSAL

1-30. Plaintiff realleges and incorporates by reference herein paragraphs 2 through 27 of Count I, paragraphs 30, 32 and 33 of Count II, and paragraph 1 of Count III, as paragraphs 1 through 30 of this Count V.

31. Section 21(e) of the Act, 415 ILCS 5/21(e) (2020), provides, in pertinent part, as follows:

No person shall:

(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.

32. Section 3.535 of the Act, 415 ILCS 5/3.535 (2020), provides the following definition:

"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, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows, or coal combustion by-products as defined in Section 3.135, or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as now or hereafter amended, or source, special nuclear, or by-product materials as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 921) or any solid or dissolved material from any facility subject to the Federal Surface Mining Control and Reclamation Act of 1977 (P.L. 95-87) or the rules and regulations thereunder or any law or rule or regulation adopted by the State of Illinois pursuant thereto.

33. Section 3.185 of the Act, 415 ILCS 5/3.185 (2020), provides the following definition:

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste or hazardous waste into or on any land or water or into any well 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.

34. Debris, ash, firefighting water, and storm water runoff that came into contact with the Facility after the Fire is "waste" as that term is defined in Section 3.535 of the Act, 415 ILCS 5/3.535 (2020).

35. The deposition and discharge of debris and ash, and the spilling and leaking of firefighting water and storm water runoff from the Facility after the Fire, is “disposal” as that term is defined in Section 3.185 of the Act, 415 ILCS 5/3.185 of the Act, 415 ILCS 5/3.185 (2020).

36. By depositing and discharging debris and ash, and by spilling and leaking firefighting water and storm water runoff from the Facility after the Fire, at a site not permitted for the disposal of waste, Defendant violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2020).

37. Violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary and, after a trial, permanent injunctive relief.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter a preliminary and, after a trial, permanent injunction and an order in favor of Plaintiff and against Defendant, CHEMTOOL, INCORPORATED:

1. Finding that Defendant has violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2020);

2. Enjoining Defendant from any further violations of Section 21(e) of the Act, 415 ILCS 5/21(e) (2020);

3. Ordering Defendant to undertake all necessary corrective action that will result in a final and permanent abatement of the violations of Section 21(e) of the Act, 415 ILCS 5/21(e) (2020);

4. Assessing against Defendant, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2020), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of the Act, and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Ordering Defendant, pursuant to 415 ILCS 5/42(f) (2020), to pay all costs, including oversight, sampling and clean-up costs, and attorney, expert witness and consultant fees expended by the Plaintiff in its pursuit of this action; and

6. Granting such other relief as this Court deems appropriate and just.

COUNT VI
COST RECOVERY

1. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* KWAME RAOUL, Attorney General of the State of Illinois, on his own motion and at the request of IEMA, and *ex rel.* J. HANLEY, State’s Attorney of Winnebago County, Illinois, on his own motion, pursuant to the terms and provisions of Section 10(d) of the Oil Spill Responders Liability Act, 740 ILCS 113/10(d) (2020), and is an action to recover removal costs incurred for overseeing response and cleanup activities arising from the release of oil and its degradation byproducts.

2 -27. Plaintiff realleges and incorporates by reference herein paragraphs 2 through 27 of Count I as paragraphs 2 through 27 of this Count VI.

28. Section 10(d) of the Oil Spill Responders Liability Act, 740 ILCS 113/10(d) (2020), provides as follows:

A responsible party is liable for any damage or removal costs, whether present or future, resulting from or arising out of any discharge, as defined in Section 5.

29. Section 5 of the Oil Spill Responders Liability Act, 740 ILCS 113/5 (2020), provides the following definitions:

“Damages” means damages of any kind for which liability may exist under the laws of this State resulting from, arising out of, or related to the discharge or threatened discharge of oil.

“Discharge” means an emission, other than natural seepage, intentional or unintentional, and includes, but is not limited to, spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

* * *

“Oil” means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with a waste other than dredged spoil, but does not include petroleum, including crude oil or any fraction of crude oil, that is specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of Section 101(14) of the federal Comprehensive Environmental Response Compensation and Liability Act (42 U.S.C. 9601) and that is subject to the provision of that Act.

“Person” means an individual, a corporation, a partnership, an association, the State, a municipality, a commission, or a political subdivision of the State, or an interstate body.

“Removal costs” means the cost of removal incurred after a discharge of oil or when there is a substantial threat of a discharge of oil, the costs to prevent, minimize, or mitigate oil pollution from an incident.

“Responsible party” means a responsible party as defined under Section 1001 of the Oil Pollution Act of 1990, Public Law No. 101-380 (33 U.S.C. 1001).

30. Section 2701(32) of the Oil Pollution Act of 1990, 33 U.S.C. 2701(32), defines “responsible party” as:

(B) Onshore facilities

In the case of an onshore facility (other than a pipeline), any person owning or operating the facility, except a Federal agency, State, municipality, commission, or political subdivision of a State, or any interstate body, that as the owner transfers possession and right to use the property to another person by lease, assignment, or permit.

31. The State of Illinois and Winnebago County have incurred and will continue to incur damages and costs as a result of the release and threatened release of oil and its degradation byproducts into the environment.

32. CHEMTOOL, INCORPORATED is liable for the State's and the County's removal costs.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this court enter an order in favor of Plaintiff and against Defendant, CHEMTOOL, INCORPORATED:

1. Finding that Defendant is liable for the removal costs incurred by the Plaintiff as a result of the release and threatened release of oil from the Facility as a result of the Fire, pursuant to Section 10(d) of the Oil Spill Responders Liability Act, 740 ILCS 113/10(d); and
2. Granting such other relief as this Court deems appropriate and just.

COUNT VII
COMMON LAW PUBLIC NUISANCE

1. This count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* KWAME RAOUL, Attorney General of the State of Illinois, on his own motion, and *ex rel.* J. HANLEY, State's Attorney of Winnebago County, Illinois, on his own motion.

2-27. Plaintiff realleges and incorporates by reference herein paragraphs 2 through 27 of Count I as paragraphs 2 through 27 of this Count VII.

28. The Illinois Constitution provides the People of the State of Illinois a common right "to a healthful environment." Ill. Const. art XI, sec. 1 (1970).

29. Defendant, by its actions, caused an unreasonable and substantial prejudice to the public health and welfare and the environment, to wit, has through its actions caused a Fire, resulting in a plume of smoke; caused the release of smoke, particulate matter and potentially other unknown contaminants into the air; caused the release of firefighting foam to the Rock River; threatened the release of petroleum products to waters of the State; caused the evacuation of residents within a mile radius of the Facility, and thereby threatened harm to area residents and interfered with their use and enjoyment of the environment and their homes and other property.

30. As a consequence of its actions as alleged herein, Defendant has created and maintained a public nuisance at common law.

31. Plaintiff is without an adequate remedy at law. Plaintiff will be irreparably injured, and violations of the applicable and pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter a preliminary and, after a trial, permanent injunction and an order in favor of Plaintiff and against Defendant, CHEMTOOL, INCORPORATED:

1. Finding that Defendant's actions alleged herein constituted a common law public nuisance;
2. Enjoining Defendant from further acts constituting a common law public nuisance;
3. Ordering the Defendant to immediately undertake the necessary action that will result in a final and permanent abatement of the common law public nuisance;
4. Ordering Defendant, pursuant to 415 ILCS 5/42(f) (2020), to pay all costs, including oversight, sampling and clean-up costs, and attorney, expert witness and consultant fees expended by the Plaintiff in its pursuit of this action; and

5. Granting such other relief as this Court deems appropriate and just.

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

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

By:


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PEOPLE OF THE STATE OF ILLINOIS,
ex rel. J. HANLEY,
State's Attorney of Winnebago County, Illinois

By:


LAFAKERIA S. VAUGHN
Chief of the Civil Bureau
Assistant State's Attorney

**IN THE CIRCUIT COURT FOR THE SEVENTEENTH JUDICIAL CIRCUIT
WINNEBAGO COUNTY, ILLINOIS
CHANCERY DIVISION**

PEOPLE OF THE STATE OF ILLINOIS,)	
<i>ex rel.</i> KWAME RAOUL, Attorney)	
General of the State Illinois, and <i>ex rel.</i>)	
J. HANLEY, State’s Attorney)	
for Winnebago County, Illinois,)	
)	
Plaintiff,)	
)	
v.)	No.
)	
CHEMTOOL INCORPORATED,)	
a Delaware corporation,)	
)	
Defendant.)	

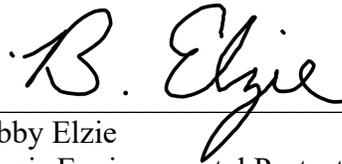
VERIFICATION

I, Bobby Elzie, do state as follows:

1. I am currently employed by the Illinois Environmental Protection Agency, Office of Emergency Response (“Illinois EPA-OER”) in Springfield, Illinois as an Emergency Response Manager.
2. I have been employed by the Illinois EPA-OER for the past 9 months.
3. The duties and responsibilities of my current position include: coordinating Illinois EPA’s role with other local, state, and federal agencies to eliminate, mitigate and prevent any environmental impacts from any emergency.
4. In the course of my employment with the Illinois EPA-OER, I have obtained direct and personal knowledge as to the conditions arising from a fire that began on June 14, 2021, at the Defendant’s facility in Rockton, Illinois.
5. I have read the foregoing Verified Complaint for Injunction and Civil Penalties (the “Complaint”), and am aware of the contents thereof.

5. The factual matters set forth in the Complaint are true in substance and in fact, to the best of my knowledge, information and belief.

6. Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, 735 ILCS 5/1-109, the undersigned certifies that the statements set forth in this instrument 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 he verily believes the same to be true.



Bobby Elzie
Illinois Environmental Protection Agency

Dated: 07/09/2021