

**IN THE CIRCUIT COURT OF THE TWENTY-SECOND JUDICIAL CIRCUIT
McHENRY COUNTY, ILLINOIS
CHANCERY DIVISION**

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

Plaintiff,)

v.)

300 WEST LLC, an Illinois limited liability)
co., and THE ARNOLD ENGINEERING)
CO., an Illinois corporation,)

Defendants.)

FILED

MAR 26 2015

KATHERINE M. KEEFE
McHENRY CTY. CIR. CLK.

No. 13CH1046

FIRST AMENDED COMPLAINT FOR INJUNCTION AND CIVIL PENALTIES

Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), complains of the Defendants, 300 WEST LLC, an Illinois limited liability company ("300 West"), and THE ARNOLD ENGINEERING CO., an Illinois corporation ("Arnold Engineering," and together with 300 West, the "Defendants"), 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.* LISA MADIGAN, the Attorney General of the State of Illinois, on her own motion and at the request of the Illinois EPA, against the Defendants pursuant to the terms and provisions of Section 43(a) of the Illinois Environmental Protection Act (the "Act"), 415 ILCS 5/43(a) (2014),

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 (2014), and charged, *inter alia*, with the duty of enforcing the Act.

3. At all times relevant to this Complaint, Defendant 300 West LLC was and is an Illinois limited liability company in good standing.

4. At all times relevant to this Complaint, Defendant The Arnold Engineering Co. was and is an Illinois corporation in good standing.

5. Between at least 1970 and January 2005, and on such dates better known to Arnold Engineering, Arnold Engineering owned the property located at 300 North West Street, Marengo, McHenry County, Illinois (the "Site").

6. On or about May 25, 2006, and on such other dates better known to 300 West, 300 West purchased the Site and has since owned, and continues to own, the Site.

7. Since May 2006, Arnold Engineering has leased the Site from 300 West and conducted manufacturing operations at the Site.

8. Between at least 1970 and the present, and on such dates better known to Arnold Engineering, Arnold Engineering operated a manufacturing facility at the Site. Arnold Engineering conducted its manufacturing operations in the following buildings at the Site:

- a. Building 1: Arnold Engineering utilized this building for magnet component manufacturing, pressing operations and heat treating. Building 1 was demolished in or about 2002, or on such date better known to Arnold Engineering.
- b. Building 2/3/4/7: Arnold Engineering utilized this building for tape-core, powder-core and winding operations associated with magnetic

manufacturing, office space, maintenance, shipping and miscellaneous storage. Arnold Engineering ceased its manufacturing operations in this building in or about 2002, or on such date better known to Arnold Engineering.

- c. Building 5: Arnold Engineering currently utilizes and historically utilized this building for the manufacture of magnetic components.
- d. Building 6: Arnold Engineering conducted wet processing, mixed metal sludge pressing, iron powder compressing and baking/grinding operations in this building, which was demolished in or about 1993, or on such date better known to Arnold Engineering.
- e. Building 10: Arnold Engineering historically conducted drum storage, drum cleaning and paint mixing in this building, and currently conducts drum and record storage in this building.
- f. Building 11/14: Arnold Engineering currently conducts, and historically conducted, rolling mill and finishing operations to produce thin-gauge rolled steel products in the building.
- g. Building 12: Arnold Engineering historically utilized this building as a warehouse.
- h. Building 16: Arnold Engineering currently utilizes, and historically utilized, this building as a hazardous and non-hazardous material storage area.

9. Prior to 2002, and on such dates better known to Arnold Engineering, Arnold Engineering utilized chlorinated solvents in its production processes at the Site, including, without limitation, 1, 1, 1-trichloroethane (also known as chloroethane or chloroethene, "TCA"), perchloroethylene (also known as tetrachloroethylene, "PCE") and trichloroethylene ("TCE").

10. Between approximately 1950 and 1990, and on such dates better known to Arnold Engineering, Arnold Engineering utilized twelve (12) underground storage tanks at the Site for mineral oil, acetone, methanol, TCA, kerosene and gasoline. Arnold Engineering stored pure TCA at the Site in two 6,000 gallon underground storage tanks for approximately 30 years until 1990.

11. Four wastewater treatment ponds have been, and are currently, located at the northwestern portion of the Site (the "Ponds").

12. Between 1989 and 1991, and on such other dates better known to Arnold Engineering, Arnold Engineering personnel put solvents, including acetone, methanol, methyl ethyl ketone and TCA, down drains at the Site, which flowed into the Ponds.

13. Between the mid-1980s and 2006, and on such other dates better known to Arnold Engineering, Arnold Engineering personnel dumped spent phosphoric acid into the Ponds.

14. Shallow groundwater flow under the Site is to the north-northwest.

15. Seventeen private and non-community water wells are located within an area to the north-northwest, approximately one mile downgradient of the Site. The Kishwaukee River is located approximately 1.5 miles north-northwest of the Site.

16. On February 28, 2008, the Illinois EPA issued a Violation Notice numbered L-2008-01057 to Arnold Engineering due to chlorinated solvent groundwater contamination existing on-Site, including TCA, PCE and other related contaminants, for the prior approximately 20 years (the "February 28, 2008 Violation Notice"). A true and correct copy of the February 28, 2008 Violation Notice is attached hereto as Exhibit 1.

17. On April 15, 2008, the Illinois EPA issued a Violation Notice numbered L-2008-01123 to 300 West due to chlorinated solvent groundwater contamination existing on-Site (the "April 15, 2008 Violation Notice"). A true and correct copy of the April 15, 2008 Violation Notice is attached hereto as Exhibit 2.

18. In or about June 2007, and on such date better known to 300 West, 300 West enrolled the Site in the Illinois EPA's "Site Remediation Program."

19. Since entering the Site Remediation Program, and on such dates better known to 300 West, 300 West has conducted limited on-Site and off-Site groundwater sampling from monitoring wells which were installed as follows: (a) Monitoring Wells 1-16 installed on-Site in May 2010; (b) Monitoring Well 17 installed on-Site in October 2010; (c) Monitoring Wells 18-21 installed off-Site in October 2010; (d) Monitoring Well 22 installed on-Site in February 2011; and (e) Monitoring Well 23 installed off-Site in February 2011.

20. Since entering the Site Remediation Program, and on such dates better known to 300 West, 300 West has conducted limited on-Site soil sampling.

21. Since entering the Site Remediation Program, and on such dates between known to 300 West, 300 West has obtained sampling results showing TCA and PCE contamination in on-Site soils.

22. Since entering the Site Remediation Program, 300 West has failed to fully investigate and remediate the chlorinated solvent contamination on the Site.

23. Pursuant to the authority granted in Section 8(a) of the Illinois Groundwater Protection Act, 415 ILCS 55/8(a) (2014), the Illinois Pollution Control Board ("Board") has promulgated rules and regulations to establish comprehensive water quality standards which are specifically for the protection of groundwater and which are codified as 35 Ill. Adm. Code 620: Groundwater Quality Standards ("Board Groundwater Quality Regulations").

24. Class I groundwater is defined in Section 620.210(a) of the Board Groundwater Quality Regulations, 35 Ill. Adm. Code 620.210(a), as follows:

- a) Groundwater located 10 feet or more below the land surface and within:
 - 1) The minimum setback zone of a well which serves as a potable water supply and to the bottom of such well;

25. The groundwater underlying the Site is within the minimum setback zone of a number of private and non-community potable water wells, and is "Class I Groundwater" as that term is defined in Section 620.210(a) of the Board Groundwater Quality Regulations, 35 Ill. Adm. Code 620.210(a).

26. Section 620.410(b) of the Board Groundwater Quality Regulations, 35 Ill. Adm. Code 620.410(b), provides as follows:

b) Organic Chemical Constituents

Except due to natural causes or as provided in Section 620.450 or subsection (d), concentrations of the following organic chemical constituents shall not be exceeded in Class I groundwater:

Constituent	Standard
	(1 mg/L = 1ppm = 0.001 ppb)
1,1-Dichloroethylene ("1,1-DCE")	7ppb
cis-1,2-Dichloroethylene ("cis-1,2-DCE")	70ppb
1,2-Dichloroethane ("1,2-DCA")	5ppb
trans-1,2-Dichloroethylene ("trans-1,2-DCE")	100ppb
Trichloroethylene ("TCE")	5ppb
Tetrachloroethylene ("PCE")	5ppb
Vinyl Chloride	2ppb

(1,1-DCE, cis-1,2-DCE, 1,2-DCA, trans-1,2-DCE, TCE, PCE and Vinyl Chloride are chlorinated volatile organic compounds and are collectively referred to herein as the "Chlorinated VOCs.")

27. TCE and PCE degrade chemically over time into cis-1,2-DCE, 1,2-DCA and trans-1,2-DCE, which can migrate through groundwater.

28. PCE degrades chemically over time into TCE, and TCA degrades chemically over time into 1,1-DCE. Both TCE and 1,1-DCE can migrate through groundwater.

29. 1,1-DCE, cis-1,2-DCE, 1,2-DCA, trans-1,2-DCE, TCE and PCE degrade chemically over time into Vinyl Chloride, which can migrate through groundwater.

30. Vinyl Chloride ("VC") is recognized by the United States Department of Health and Human Services, the United States Environmental Protection Agency ("U.S. EPA") and the International Agency for Research on Cancer as a known human carcinogen. Short term exposure to high levels of VC can cause damage to the nervous system. Long term exposure can cause cancer and may damage the liver.

31. TCE has been recognized as a known human carcinogen by the U.S. EPA and is reasonably anticipated to be a human carcinogen by the Agency for Toxic Substances and Disease Registries. Short term exposure to high levels of TCE can cause liver effects, and exposure during pregnancy may cause heart defects in the offspring. Long term exposure to lower levels of TCE can cause cancer, nervous and immune system effects and developmental effects.

32. PCE is reasonably anticipated to be a human carcinogen by the Agency for Toxic Substances and Disease Registries, probably carcinogenic by the International Agency for Research on Cancer, and likely to be a human carcinogen by the U.S. EPA. Short term exposure to high levels of PCE can cause damage to the nervous system. Long term exposure to lower levels of PCE may cause cancer, nervous and respiratory system effects and developmental effects.

33. Short term exposure to high levels of 1,1-DCE can cause damage to the liver and kidneys. Long term exposure to lower levels of 1,1-DCE can cause damage to the liver and kidneys, cardiovascular and nervous system effects and developmental effects.

34. After May 2010, and on such dates better known to the Defendants, Environmental Group Services Limited ("EGSL"), an environmental consultant retained by 300 West, collected samples of groundwater from monitoring wells located on-Site. Analytical

testing of the samples revealed the highest concentrations of 1,1-DCE, PCE and TCE to be as follows:

Constituent	Sample Location	Constituent Concentration	Class I Groundwater Standards in ppb (1 mg/L = 1ppm = 0.001 ppb)
1,1-DCE	Monitoring Well-1	17 ppb	7 ppb
	Monitoring Well-2	44 ppb	
	Monitoring Well-4	36 ppb	
	Monitoring Well-5	13 ppb	
	Monitoring Well-6	12 ppb	
	Monitoring Well-7	31 ppb	
	Monitoring Well-13	12 ppb	
	Monitoring Well-17	10 ppb	
PCE	Monitoring Well-4	14 ppb	5 ppb
	Monitoring Well-7	12 ppb	
	Monitoring Well-8	10 ppb	
TCE	Monitoring Well-7	7.8 ppb	5 ppb

35. After May 2010, and on such dates better known to the Defendants, EGSL collected samples of groundwater from monitoring wells located approximately fifty feet away from the northwest portion of the Site. Analytical testing of the samples revealed the highest concentrations of 1,1-DCE, PCE and TCE to be as follows:

Constituent	Sample Location	Constituent Concentration	Class I Groundwater Standards in ppb (1 mg/L = 1ppm = 0.001 ppb)
1,1-DCE	Monitoring Well-19	16 ppb	7 ppb
PCE	Monitoring Well-19	9.2 ppb	5 ppb
Vinyl Chloride	Monitoring Well-18	2.5 ppb	2 ppb

36. On May 14, 2013, EGSL, with oversight by the Illinois EPA, collected water samples from thirteen private wells located north-northwest and within one mile of the Site. Analytical testing of the samples revealed the presence of the Chlorinated VOCs in six of the private wells as follows:

Sample Location	Constituent Concentration (in ppb): (1 mg/L = 1ppm = 0.001 ppb)						
	1,1-DCE	cis-1,2-DCE	DCA	Trans-1,2-DCE	TCE	PCE	VC
4907 Ritz Road	39.6*	19	1.34	5.84	2.37	-	1.52
4913 Ritz Road	22*	13.6	-	5.26	6.47**	1.28	-
4805 Ritz Road	3.05	1.48	-	-	-	-	-
5010 Ritz Road	2.62	-	-	-	-	-	0.54
21902 Railroad St.	0.47	-	-	-	-	-	-
21816 Railroad St.	2.01	2.23	-	-	4.47	-	-

*Denotes a class 1 groundwater exceedance above the 7ppb standard

**Denotes a class 1 groundwater exceedance above the 5ppb standard

37. Section 43(a) of the Act, 415 ILCS 5/43(a) (2014), 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.

38. The Chlorinated VOCs released at the Site have entered the groundwater and impacted residential potable water wells. The Chlorinated VOCs have exceeded the Board's Class I Groundwater Quality Regulations in at least two drinking water wells, thereby threatening the health and safety of the public.

39. The Defendants, by their actions or omissions as alleged herein, have created circumstances of substantial danger to the environment and the public health and welfare, by causing, threatening or allowing the discharge of the Chlorinated VOCs into the groundwater on-Site, which has migrated off-Site into at least six private drinking water wells.

40. Section 42(a) of the Act, 415 ILCS 5/42(a) (2014), provides as follows:

- (a) Except as provided in this Section, any person that violates any provision of this Act or any regulation adopted by the Board, or any permit or term or condition thereof, or that violates any order of the Board pursuant to this Act, shall be liable for a civil penalty of not to exceed \$50,000 for the violation and an additional civil penalty of not to exceed \$10,000 for each day during which the violation continues; such penalties may, upon order of the Board or a court of competent jurisdiction, be made payable to the Environmental Protection Trust Fund, to be used in accordance with the provisions of the Environmental Protection Trust Fund Act.

41. Section 3.315 of the Act, 415 ILCS 5/3.315 (2014), 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.

42. The Defendants are each a “person,” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2014).

43. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2014), civil penalties can be assessed for violations of any provision of the Act.

44. Plaintiff is without an adequate remedy at law. Plaintiff will be irreparably injured and violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of immediate, and, after a hearing, preliminary 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 the Defendants, 300 WEST LLC and THE ARNOLD ENGINEERING CO.:

1. Finding that the Defendants, 300 West LLC and The Arnold Engineering Co., created and are maintaining a substantial danger to the environment and public health and welfare;
2. Enjoining the Defendants, 300 West LLC and The Arnold Engineering Co., from creating any further substantial endangerment pursuant to Section 43(a) of the Act, 415 ILCS 5/43(a) (2014);
3. Ordering the Defendants, 300 West LLC and The Arnold Engineering Co., to (a) immediately provide an alternative source of drinking water to the owners of the private water wells located at 4907 Ritz Road, 4913 Ritz Road, 4805 Ritz Road, 5010 Ritz Road, 21902 Railroad St. and 21816 Railroad St. in Marengo, McHenry County, Illinois, and (b) conduct water sampling at the private water wells located at 4501 Ritz Road, 4106 Ritz Road, 4210 Ritz Road, 4805 Ritz Road, 4907 Ritz Road, 4913 Ritz Road, 5011 Ritz Road, 5017 Ritz Road, 5010 Ritz Road, 22110 Railroad St., 22104 Railroad St., 22012 Railroad St., 21902 Railroad St., 21816 Railroad St., 21820 Railroad St., 21606 Railroad St. and 21602 Railroad St. in accordance with a schedule approved by Plaintiff to monitor the Chlorinated VOCs downgradient of the Site;
4. Ordering the Defendants, 300 West LLC and The Arnold Engineering Co., to immediately delineate the nature and extent of groundwater contamination of the Chlorinated VOCs, and to remediate such groundwater contamination, both on-Site and off-Site;
5. Assessing against the Defendants, 300 West LLC and The Arnold Engineering Co., pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2014), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of the Act, and an additional Ten Thousand Dollars (\$10,000.00) for each day of violation;

6. Ordering the Defendants, 300 West LLC and The Arnold Engineering Co., pursuant to 415 ILCS 5/42(f) (2014), 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

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

COUNT II

WATER POLLUTION

1. This count is brought on behalf of the People of the State of Illinois, *ex rel.* Lisa Madigan, Attorney General of the State of Illinois, on her own motion, pursuant to Sections 42(d) and (e) of the Act, 415 ILCS 5/42(d) and (e) (2014).

2-41. Plaintiff realleges and incorporates herein by reference paragraphs 2 through 36 and 38 through 42 of Count I as paragraphs 2 through 41 of this Count II.

42. Section 12(a) of the Act, 415 ILCS 5/12(a) (2014), 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.

43. Section 3.165 of the Act, 415 ILCS 5/3.165 (2014), provides the following definition:

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

44. The Chlorinated VOCs both on- and off-Site are “contaminants,” as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2014).

45. Section 3.550 of the Act, 415 ILCS 5/3.550 (2014), provides the following definition:

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

46. The groundwater underlying the Site and located off-Site constitutes “water[s]” of the State of Illinois, as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2014).

47. Section 3.545 of the Act, 415 ILCS 5/3.545 (2014), provides the following definition:

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

48. On such dates better known to the Defendants, the Defendants caused, threatened or allowed the discharge and migration of the Chlorinated VOCs into groundwater at the Site. The Chlorinated VOCs were allowed to migrate into groundwater underlying the Site and into off-Site groundwater, including into private water wells located in close proximity to the north-northwest boundary of the Site, impacting drinking water.

49. The Chlorinated VOCs migrating to groundwater at and near the Site created, or threatened to create, a nuisance and rendered the groundwater harmful to human health and the environment, which constitutes water pollution as that term is defined by Section 3.545 of the Act, 415 ILCS 5/3.545 (2014).

50. The Defendants, by their actions as alleged herein, caused, threatened or allowed water pollution, and thereby violated and continue to violate Section 12(a) of the Act, 415 ILCS 5/12(a) (2014).

51. Plaintiff is without an adequate remedy at law. Plaintiff will be irreparably injured and 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 trial, permanent injunctive relief.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Court enter an Order granting a preliminary injunction and, after trial, a permanent injunction in favor of Plaintiff, and against the Defendants, 300 WEST LLC and THE ARNOLD ENGINEERING CO.:

1. Finding that the Defendants violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2014);

2. Enjoining the Defendants from any further violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2014);

3. Ordering the Defendants to immediately delineate the nature and extent of the groundwater contamination of the Chlorinated VOCs, and to remediate such groundwater contamination, both on-Site and off-Site;

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

5. Ordering the Defendants, pursuant to 415 ILCS 5/42(f) (2014), 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

COST RECOVERY

1. This count is brought on behalf of the People of the State of Illinois, *ex rel.* Lisa Madigan, Attorney General of the State of Illinois, on her own motion, pursuant to Section 22.2(f) of the Act, 415 ILCS 5/22.2(f) (2014), to recover the removal and/or remedial costs incurred by the State of Illinois.

2-41. Plaintiff realleges and incorporates herein by reference paragraphs 2 through 36 and 38 through 42 of Count I as paragraphs 2 through 41 of this Count III.

42. Section 22.2(f) of the Act, 415 ILCS 5/22.2(f) (2014), provides, in pertinent part, as follows:

- f. Notwithstanding any other provisions or rule of law, and subject only to the defenses set forth in Subsection (j) of this Section, the following persons shall be liable for all costs of removal or remedial action incurred by the State of Illinois or any unit of local government as a result of a release or substantial threat of release of hazardous substance or pesticide:

* * *

- 2. Any person who at the time of disposal, transport, storage or treatment of a hazardous substance or pesticide owned or operated the facility or vessel used for such disposal, transport, treatment or storage from which there was a release or substantial threat of release of any such hazardous substance or pesticide;

43. Sections 3.215, 3.395, 3.400, and 3.405 of the Act, 415 ILCS 5/3.215, 5/3.315, 5/3.395, 5/3.400, and 5/3.405 (2014), provide the following definitions:

Section 3.215

"HAZARDOUS SUBSTANCE" means (A) any substance designated pursuant to Section 311(b)(2)(A) of the Federal Water Pollution Control Act (P.L. 92-500), as amended, (B) any element, compound, mixture, solution, or substance designated pursuant to Section 102 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (P.L. 96-510), as amended, (C) any hazardous waste, (D) any toxic pollutant listed under Section 307(a) of the Federal Water Pollution Control Act (P.L. 92-500), as amended, (E) any hazardous air pollutant listed under Section 112 of the Clean Air Act (P.L. 95-95), as amended; (F) any imminently hazardous chemical substance or mixture with respect to which the Administrator of the U.S. Environmental Protection Agency has taken action pursuant to Section 7 of the Toxic Substances Control Act (P.L. 94-469), as amended. The term does not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of this paragraph, and the term does not include natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel or mixtures of natural gas and such synthetic gas.

Section 3.395

"RELEASE" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, but excludes (a) any release which results in exposure to persons solely within a workplace, with respect to a claim which such persons may assert against the employer of such persons; (b) emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine; (c) release of a source, byproduct, or special nuclear material from a nuclear incident, as those items are defined in the Atomic Energy Act of 1954, if such release is subject to requirements with respect to financial protection established by the Nuclear Regulatory Commission under Section 170 of such Act; and, (d) the normal application of fertilizer.

Section 3.400

"REMEDIAL ACTION" means those actions consistent with permanent remedy taken instead of or in addition to removal actions in the event of a release or threatened release of a hazardous substance into the environment, to prevent or minimize the release of hazardous substances so that they do not migrate to cause substantial danger to present or future public health or welfare or the environment. The term includes, but is not limited to, such actions at the location of the release as storage, confinement, perimeter protection using dikes, trenches, or ditches, clay cover, neutralization, cleanup of released hazardous substances or contaminated materials, recycling or reuse, diversion destruction, segregation of reactive wastes, dredging or excavations, repair or replacement of leaking

containers, collection of leachate and runoff, onsite treatment or incineration, provision of alternative water supplies, and any monitoring reasonably required to assure that such actions protect the public health and welfare and the environment. . . . The term includes offsite transport of hazardous substances, or the storage, treatment, destruction or secure disposition offsite of such hazardous substances or contaminated materials.

Section 3.405

“REMOVE” or “REMOVAL” means the cleanup or removal of released hazardous substances from the environment, actions as may be necessary taken in the event of the threat of release of hazardous substances into the environment, actions as may be necessary to monitor, assess, and evaluate the release or threat of release of hazardous substances, the disposal of removed material or the taking of other actions as may be necessary to prevent, minimize, or mitigate damage to the public health or welfare or the environment, that may otherwise result from a release or threat of release. . . .

44. Sections 22.2(h)(1) and (2) of the Act, 415 ILCS 5/22.2(h)(1) and (2) (2014), provide, in pertinent part, the following definitions:

h. For purposes of this section:

1. The term “facility” means

- A. any building, structure, installation, equipment, pipe or pipeline including but not limited to any pipe into a sewer or publicly owned treatment works, well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling rock, or aircraft; or
- B. any site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located;

2. The term “owner or operator” means:

- A. Any person owning or operating a vessel or facility. . . .

45. The Site constitutes a “facility” as that term is defined in Section 22.2(h)(1)(A) and (B) of the Act, 415 ILCS 5/22(h)(1)(A) and (B) (2014).

46. Each of the Defendants constitutes an “owner or operator” of a facility as that

term is defined in Section 22.2(h)(2)(A) of the Act, 415 ILCS 5/22.2(h)(2)(A) (2014).

47. Each of the Chlorinated Solvents is a “hazardous substance” within the meaning of Section 3.215, and 22.2(f) of the Act, 415 ILCS 5/3.215, and 5/22.2(f) (2014).

48. The release of hazardous substances from the Site into the soil and groundwater on-Site and into the drinking water wells located to the north and downgradient of the Site constitutes a “release” within the meaning of Sections 3.395 and 22.2(f) of the Act, 415 ILCS 5/3.395 and 5/22.2(f) (2014).

49. The State of Illinois has and/or continues to incur costs for performing “remedial actions” and/or “removal actions” as those terms are defined by Sections 3.400, 3.405 and 22.2(f) of the Act, 415 ILCS 5/3.400, 5/3.405 and 5/22.2(f) (2014).

50. Each of the Defendants is a person who, as an owner or operator of a facility, is liable pursuant to Section 22.2(f) of the Act for all costs of removal and remedial actions as a result of the release or substantial threat of release of hazardous substances from the Site.

WHEREFORE, Plaintiff respectfully requests this Court to enter an order in favor of the Plaintiff and against the Defendants and grant the following relief:

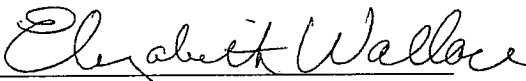
1. Finding that the Defendants are liable for costs of removal or remedial actions for releases of hazardous substances that were caused by the Defendants’ acts or omissions pursuant to Section 22.2(f) of the Act, 415 ILCS 5/22.2(f) (2014);
2. Assessing liability against the Defendants for costs of removal and remedial actions incurred by the State pursuant to Section 22.2(f) of the Act, 415 ILCS 5/22.2 (2014);

3. Assessing all costs of this proceeding, including expert witness and attorney fees, against the Defendants; and

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

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

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

By: 
ELIZABETH WALLACE, Chief
Environmental Bureau
Assistant Attorney General

Of Counsel:
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69 W. Washington Street, 18th Floor
Chicago, Illinois 60601
(312) 814-0608

EXHIBIT 1



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 - (217) 782-3397
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601 - (312) 814-6026

ROD R. BLAGOJEVICH, GOVERNOR DOUGLAS P. SCOTT, DIRECTOR

847/294-4000
847/294-4083 Fax

FEB 28 2008

Arnold Magnetic Technologies
300 N. West Street
Marengo, IL 60152

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7004 1350 0003 1611 1531

Attention: Al Kalaczinski

Re: Violation Notice, L-2008-01057
LPC #1110650003 - McHenry County
Marengo/Arnold Magnetic Technologies
Compliance File

RECEIVED

MAR 6 2008

IEPA/BOL

Dear Mr. Kalaczinski:

This constitutes a Violation Notice pursuant to Section 31(a)(1) of the [Illinois] Environmental Protection Act, 415 ILCS 5/31(a)(1), and is based on a record review completed on February 26, 2008 by representatives of the Illinois Environmental Protection Agency (Illinois EPA).

The Illinois EPA hereby provides notice of violations of environmental statutes, regulations, or permits as set forth in Attachment A to this letter. Attachment A includes an explanation of the activities that the Illinois EPA believes may resolve the specified violations, including an estimate of a reasonable time period to complete the necessary activities. However, due to the nature and seriousness of the violations cited, please be advised that resolution of the violations may require the involvement of a prosecutorial authority for purposes that may include, among others, the imposition of statutory penalties.

A written response which may include a request for a meeting with representatives of the Illinois EPA, must be submitted via certified mail to the Illinois EPA within 45 days of receipt of this letter. The response must address each violation specified in Attachment A and include for each an explanation of the activities that will be implemented and the time schedule for the completion of that activity. The written response will constitute a proposed Compliance Commitment Agreement (CCA) pursuant to Section 31 of the Act. The Illinois EPA will review the proposed CCA and will accept or reject it within 30 days of receipt.

RELEASABLE

MAY 14 2008

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 987-7760 • DES PLAINES - 9511 W. Harrison St., Des Plaines, IL 60016 - (847) 294-4000
ELGIN - 545 Sixth State, Elgin, IL 60121 - (847) 608-3131 • PEORIA - 5415 N. University St., Peoria, IL 61614 - (309) 693-5463
BUREAU OF LAND - PEORIA - 7620 N. University St., Peoria, IL 61614 - (309) 693-5462 • CHAMPAIGN - 7125 South First Street, Champaign, IL 61820 - (217) 278-5800
SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62706 - (217) 786-6892 • COLLINGSVILLE - 2009 Mall Street, Collinsville, IL 62404 - (618) 224-2200
MARION - 2309 W. Main St., Suite 116, Marion, IL 62959 - (618) 993-7200

Arnold Magnetic Technologies

Page 2

If a timely written response to this Violation Notice is not provided, it shall be considered to be a waiver of the opportunity to respond and to meet provided by Section 31(a) of the Act, and the Illinois EPA may proceed with a referral to the prosecutorial authority.

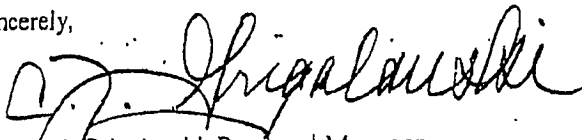
Written communications should be directed to:

Illinois EPA – Bureau of Land
Attn: Charles Grigalauski
9511 West Harrison Street, 3rd Floor
Des Plaines, Illinois 60016

All communications must include reference to this Violation Notice Number, **L-2008-01057**.

The text of the Act referenced herein is available at www.ipcb.state.il.us. If you have questions regarding this matter, please contact Thomas Rivera at 847/294-4079.

Sincerely,



Charles T. Grigalauski, Regional Manager
Field Operations Section
Bureau of Land

Enclosure

cc: Bureau of Land File
Des Plaines Region File

RECEIVED

MAR 05 2008

ATTACHMENT A

IEPA/BOL

1. Pursuant to Section 12(a) of the {Illinois} Environmental Protection Act (415 ILCS 5/12(a)), no person shall cause, 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 under this Act.

A violation of Section 12(a) of the {Illinois} Environmental Protection Act (415 ILCS 5/12(a)) is alleged for the following reason: The discharge of contaminants was caused and allowed in a way that caused water pollution. Chlorinated solvent contamination above the Class 1 groundwater objectives is present in on site groundwater. The groundwater contamination has been present for approximately 20 years. Shallow groundwater flow under the site is to the north-northwest, towards the nearby Kishwaukee River. Residential/nonresidential private water wells are located to the north-northwest, directly down gradient of the site. The private wells are within 1/2 mile of the site and its unknown at this time if the private wells have been impacted by the chlorinated solvent groundwater contamination.

1,1,1-Trichloroethane (1,1,1-TCA) was detected as high as 4,900 ppb, in 1999, in on site groundwater monitoring well MW-3. More recently in 2007, 1,1,1-TCA was detected as high as 501 ppb in on site groundwater monitoring well MW-A7. Tetrachloroethene (PCE) was detected as high as 18.8 ppb, in 2007, in onsite groundwater monitoring well MW-3. PCE contamination in MW-3 has steadily increased over the past approximately 6 years. Other on site groundwater monitoring wells have chlorinated solvent detections as well, but MW-3 and MW-A7 have shown the highest concentrations of 1,1,1-TCA and PCE.

2. Pursuant to Section 12(d) of the {Illinois} Environmental Protection Act (415 ILCS 5/12(d)), no person shall deposit any contaminants upon the land in such place and manner so as to create a water pollution hazard.

A violation of Section 12(d) of the {Illinois} Environmental Protection Act (415 ILCS 5/12(d)) is alleged for the following reason: Contaminants were deposited upon the land in such a place and manner that created a water pollution hazard. Chlorinated solvent contamination above the Class 1 groundwater objectives is present in on site groundwater. The groundwater contamination has been present for approximately 20 years. Shallow groundwater flow under the site is to the north-northwest, towards the nearby Kishwaukee River. Residential/nonresidential private water wells are located to the north-northwest, directly down gradient of the site. The private wells are within 1/2 mile of the site and its unknown at this time if the private wells have been impacted by the chlorinated solvent groundwater contamination.

1,1,1-TCA was detected as high as 4,900 ppb, in 1999, in on site groundwater monitoring well MW-3. More recently in 2007, 1,1,1-TCA was detected as high as 501 ppb in on site groundwater monitoring well MW-A7. PCE was detected as high as 18.8 ppb, in 2007, in on site groundwater monitoring well MW-3. PCE contamination in MW-3 has steadily increased over the past approximately 6 years. Other on site groundwater monitoring wells have chlorinated solvent detections as well, but MW-3 and MW-A7 have shown the highest concentrations of 1,1,1-TCA and PCE.

SUGGESTED RESOLUTIONS

1. Immediately determine the source(s) of 1,1,1-TCA, PCE and other related contaminants that are present in groundwater under the subject site by conducting an investigation.
 2. Immediately determine the extent of 1,1,1-TCA, PCE and other related contaminants in soil and groundwater, both on site and off site, by conducting an investigation.
 3. Collect representative groundwater samples from all down gradient residential/nonresidential private water wells (approximately 16) located within approximately 1/4 mile of the site, see the attached map. The private water well samples shall be collected from an unfiltered and unsoftened spigot, after an appropriate water system purge is conducted. The samples shall be analyzed for Volatile Organic Compounds at an Illinois EPA approved laboratory. Illinois EPA would like to oversee the sampling event.
 4. Remediate, if necessary, to meet all applicable remediation objectives for soil and groundwater.
- * Immediately manage the groundwater to mitigate impairment caused by the release of volatile organic compounds.
 - * All copies of receipts/manifests, and analytical reports must be submitted to the Illinois EPA that document the proper disposal of any waste (i.e. impacted soil, contaminated groundwater). The receipts/manifests must be submitted within 10 days after the off-site shipment.
 - * Within 45 days from the receipt of this letter, enroll in the Site Remediation Program.
 - * A Site Investigation Work Plan shall be submitted within 30 days of the Illinois EPA approval of the Site Remediation application.
 - * The Site Investigation shall be implemented within 30 days of the Illinois EPA approval of the Site Investigation Work Plan.
 - * The Site Investigation Report shall be submitted within 180 days of approval of the Site Investigation Work Plan.
 - * The Remediation Objectives Report shall be submitted within 30 days of approval of the Site Investigation Report.
 - * The Remedial Action Plan shall be submitted within 30 days of Illinois EPA approval of the Remedial Objectives Report.
 - * The remedial action shall be implemented within 30 days of Illinois EPA approval of the Remediation Action Plan.

-
- * The Remedial Action Completion Report shall be submitted within 365 days of Illinois EPA approval of the Remedial Action Plan.

The written response to this Violation Notice must include information in rebuttal, explanation, or justification of each alleged violation and must be submitted to the Illinois EPA by certified mail, within 45 days of receipt of this Violation Notice. The written response must also include a proposed Compliance Commitment Agreement that commits to specific remedial actions, includes specified times for achieving each commitment, and may include a statement that compliance has been achieved.

EXHIBIT 2



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 - (217) 782-3397
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601 - (312) 814-6026

ROD R. BLAGOJEVICH, GOVERNOR DOUGLAS P. SCOTT, DIRECTOR

847/294-4000
847/294-4083 Fax

APR 15 2008

300 West LLC
2340 River Road
Suite 310
Des Plaines, IL 60018

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7004 1350 0003 1611 1586

Attention: John Daley and Sam Mandarino

Re: Violation Notice, L-2008-01123
LPC #1110650003 - McHenry County
Marengo/Arnold Magnetic Technologies
Compliance File

RELEASABLE

MAY 14 2008

REVIEWER MD

Dear Mr. Daley and Mr. Mandarino:

This constitutes a Violation Notice pursuant to Section 31(a)(1) of the Illinois Environmental Protection Act, 415 ILCS 5/31(a)(1), and is based on a record review completed on February 26, 2008 by representatives of the Illinois Environmental Protection Agency (Illinois EPA).

The Illinois EPA hereby provides notice of violations of environmental statutes, regulations, or permits as set forth in Attachment A to this letter. Attachment A includes an explanation of the activities that the Illinois EPA believes may resolve the specified violations, including an estimate of a reasonable time period to complete the necessary activities. However, due to the nature and seriousness of the violations cited, please be advised that resolution of the violations may require the involvement of a prosecutorial authority for purposes that may include, among others, the imposition of statutory penalties.

A written response which may include a request for a meeting with representatives of the Illinois EPA, must be submitted via certified mail to the Illinois EPA within 45 days of receipt of this letter. The response must address each violation specified in Attachment A and include for each an explanation of the activities that will be implemented and the time schedule for the completion of that activity. The written response will constitute a proposed Compliance Commitment Agreement (CCA) pursuant to Section 31 of the Act. The Illinois EPA will review the proposed CCA and will accept or reject it within 30 days of receipt.

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 987-7760 • DES PLAINES - 9511 W. Harrison St., Des Plaines, IL 60016 - (847) 294-4000
ELGIN - 595 South State, Elgin, IL 60123 - (847) 608-3131 • PEORIA - 5415 N. University St., Peoria, IL 61614 - (309) 693-5463
BUREAU OF LAND - PEORIA - 7620 N. University St., Peoria, IL 61614 - (309) 693-5462 • CHAMPAIGN - 2125 South First Street, Champaign, IL 61820 - (217) 278-5800
SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62706 - (217) 786-6892 • COLLINSVILLE - 2009 Mall Street, Collinsville, IL 62234 - (618) 346-5120
MARION - 2309 W. Main St., Suite 116, Marion, IL 62959 - (618) 993-7200

Arnold Magnetic Technologies
Page 2

If a timely written response to this Violation Notice is not provided, it shall be considered to be a waiver of the opportunity to respond and to meet provided by Section 31(a) of the Act, and the Illinois EPA may proceed with a referral to the prosecutorial authority.

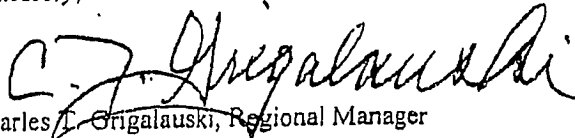
Written communications should be directed to:

Illinois EPA – Bureau of Land
Attn: Charles Grigalauski
9511 West Harrison Street, 3rd Floor
Des Plaines, Illinois 60016

All communications must include reference to this Violation Notice Number, L-2008-01123.

The text of the Act referenced herein is available at www.ipcb.state.il.us. If you have questions regarding this matter, please contact Thomas Rivera at 847/294-4079.

Sincerely,



Charles T. Grigalauski, Regional Manager
Field Operations Section
Bureau of Land

Enclosure

cc: Bureau of Land File
Des Plaines Region File

ATTACHMENT A

1. Pursuant to Section 12(a) of the {Illinois} Environmental Protection Act (415 ILCS 5/12(a)), no person shall cause, 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 under this Act.

A violation of Section 12(a) of the {Illinois} Environmental Protection Act (415 ILCS 5/12(a)) is alleged for the following reason: The discharge of contaminants was caused and allowed in a way that caused water pollution. Chlorinated solvent contamination above the Class 1 groundwater objectives is present in on site groundwater. The groundwater contamination has been present for approximately 20 years. Shallow groundwater flow under the site is to the north-northwest, towards the nearby Kishwaukee River. Residential/nonresidential private water wells are located to the north-northwest, directly down gradient of the site. The private wells are within ½ mile of the site and its unknown at this time if the private wells have been impacted by the chlorinated solvent groundwater contamination.

1,1,1-Trichloroethane (1,1,1-TCA) was detected as high as 4,900 ppb, in 1999, in on site groundwater monitoring well MW-3. More recently in 2007, 1,1,1-TCA was detected as high as 501 ppb in on site groundwater monitoring well MW-A7. Tetrachloroethene (PCE) was detected as high as 18.8 ppb, in 2007, in onsite groundwater monitoring well MW-3. PCE contamination in MW-3 has steadily increased over the past approximately 6 years. Other on site groundwater monitoring wells have chlorinated solvent detections as well, but MW-3 and MW-A7 have shown the highest concentrations of 1,1,1-TCA and PCE.

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A violation of Section 12(d) of the {Illinois} Environmental Protection Act (415 ILCS 5/12(d)) is alleged for the following reason: Contaminants were deposited upon the land in such a place and manner that created a water pollution hazard. Chlorinated solvent contamination above the Class 1 groundwater objectives is present in on site groundwater. The groundwater contamination has been present for approximately 20 years. Shallow groundwater flow under the site is to the north-northwest, towards the nearby Kishwaukee River. Residential/nonresidential private water wells are located to the north-northwest, directly down gradient of the site. The private wells are within ½ mile of the site and its unknown at this time if the private wells have been impacted by the chlorinated solvent groundwater contamination.

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