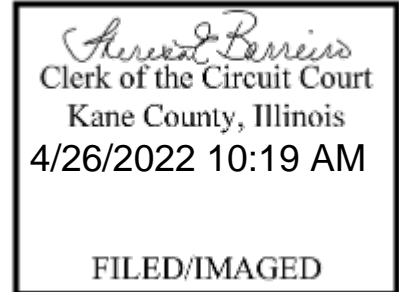


IN THE CIRCUIT COURT OF THE SIXTEENTH JUDICIAL CIRCUIT
KANE COUNTY, ILLINOIS
CHANCERY DIVISION

PEOPLE OF THE STATE OF ILLINOIS,)
ex rel. KWAME RAOUL, Attorney)
General of the State Illinois,)
)
Plaintiff,)
)
v.)
)
LB FIVE, LLC, SERIES E, an Illinois)
limited liability company, and OASIS)
LILY LAKE, INC., an Illinois corporation,)
)
Defendants.)

2022-CH-000038

No.



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”) complains of Defendant, LB FIVE, LLC, SERIES E, an Illinois limited liability company, and on his own motion complains of Defendant, OASIS LILY LAKE, INC., an Illinois corporation, (jointly referred to as “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.* KWAME RAOUL, Attorney General of the State of Illinois, on his own motion and at the request of the Illinois EPA, against Defendant LB FIVE, LLC, SERIES E, an Illinois limited liability company, and on his own motion against Defendant OASIS LILY LAKE, INC., an Illinois corporation, pursuant to the terms and provisions of Section 43(a) of the Illinois Environmental

NOTICE
BY ORDER OF THE COURT THIS CASE IS HEREBY SET FOR
CASE MANAGEMENT CONFERENCE ON THE DATE BELOW.
FAILURE TO APPEAR MAY RESULT IN THE CASE BEING
DISMISSED OR AN ORDER OF DEFAULT BEING ENTERED.

Judge: Busch, Kevin T
8/11/2022 9:00 AM

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. At all times relevant to this Verified Complaint, Defendant LB FIVE, LLC, SERIES E (“LB FIVE”) was and is an Illinois limited liability company registered to do business in Illinois and is in good standing.

4. At all times relevant to this Verified Complaint, Defendant OASIS LILY LAKE, INC. (“OASIS”) was and is an Illinois corporation authorized to do business in Illinois and is in good standing.

5. Defendant LB FIVE is the owner of a gasoline station located at 44 W 322 Illinois Route 64, Lily Lake, Kane County, Illinois.

6. Defendant OASIS is the operator of the gasoline station located at 44 W 322 Illinois Route 64, Lily Lake, Kane County, Illinois (“Site”).

7. At the Site, Defendant LB FIVE owns an underground gasoline storage tank and distribution system which is operated by Defendant OASIS. On April 6, 2022, the Site’s underground gasoline storage tank and distribution system consisted of seven underground gasoline storage tanks and other ancillary equipment including supply piping, valves, and dispensing pumps. On April 6, 2022, Tanks 5, 6, and 7 at the Site each had a storage capacity of approximately 10,000 gallons of gasoline.

8. Gasoline is a blend of straight chain and aromatic hydrocarbons. Gasoline may contain benzene, a known human carcinogen. Gasoline is harmful to humans if ingested or absorbed through the skin. Inhalation of gasoline vapors may cause damage to lungs. Gasoline is toxic to aquatic organisms if dumped or spilled into waters, and may cause long-term adverse effects to aquatic environments. Gasoline is highly flammable in liquid form, and gasoline vapors can ignite and cause flash fires or explosions.

9. If spilled, leaked, or discharged onto or into the ground, gasoline can migrate on the surface or subsurface toward waterways, wetlands, buildings, businesses, and residences.

10. According to the Illinois Department of Public Health, breathing even small amounts of gasoline vapors can result in nose and throat irritation, headaches, dizziness, nausea, and difficulty breathing. Exposure to large amounts of gasoline vapors can result in coma or death.

11. Gasoline vapors are also potentially explosive and therefore create a fire hazard in enclosed spaces.

12. On April 6, 2022, at approximately 3:21 a.m., a 911 call was received by Elburn and Countryside Fire Protection District (“FPD”) describing a strong gasoline odor in the area of the Site.

13. On April 6, 2022, at approximately 3:27 a.m., FPD arrived at the Site to conduct a gasoline odor investigation.

14. On April 6, 2022, during the early morning, FPD observed a strong gasoline odor and a visible sheen of gasoline and rainwater runoff flowing across the Site in a southeast direction toward a stormwater ditch running east along Illinois Route 64 and into a culvert moving south under Illinois Route 64.

15. The stormwater ditch, a public way, and the culvert are property of the State of Illinois.

16. On April 6, 2022, due to potential safety concerns, including the presence of gasoline vapors, Illinois Route 64 from Illinois Route 47 east to Hanson Road was closed to traffic and the electricity to the Site was turned off.

17. On April 6, 2022, approximately 8,000 gallons of gasoline were released from the underground gasoline storage tanks at the Site, impacting soil, surface water, and groundwater surrounding the Site (“the Release”).

18. On April 6, 2022, and at times better known to Defendants, the Site was under construction to repair and replace service lines for the underground gasoline storage tanks.

19. On April 6, 2022, at the Site, there were large trenches around the fuel island and the underground gasoline storage tanks were partially excavated. Pea gravel was placed around the underground gasoline storage tanks in the trenches and also above ground near the trenches at the Site.

20. On April 6, 2022, at the Site, the underground gasoline storage tanks had not been fully excavated, leaving the south facing ends of the storage tanks partially underneath concrete slabbing.

21. A drainage basin on the northwest corner of the Site directs surface water runoff to underground pipes that flow into a drainage ditch line on the southeast side of the Site. The drainage ditch on the southeast side of the Site directs stormwater runoff underneath Illinois Route 64 via a drainage culvert, which empties into a wetland directly south of the Site.

22. A wetland is located directly south across Illinois Route 64 from the Site and is a tributary to Ferson Creek (“Wetland Area”).

23. On April 6, 2022, the drainage basin on the northwest corner of the Site was at least partially clogged with debris. Subsequently, excess stormwater runoff flowed into the open trenches containing the underground gasoline storage tanks.

24. Excess stormwater runoff filled the open trenches in which the partially filled underground gasoline storage tanks 5, 6 and 7 were located. The partially filled underground gasoline storage tanks 5, 6, and 7 floated and pushed upwards coming into contact with concrete slabbing, resulting in the three tanks splitting open from increased pressure and releasing approximately 8,000 gallons of gasoline.

25. On April 6, 2022, trenches at the Site around the fuel island were filled to the top with a mixture of gasoline and water, which overflowed into the ditch line on the southeast side of the Site, then flowing through a culvert under Illinois Route 64, and into the Wetland Area to the south of the Site.

26. As of the date of filing this Verified Complaint, frac tanks are being used to store gasoline contaminated stormwater recovered at and around the Site.

27. As of the date of the filing of this Verified Complaint, roll off dumpsters are being used to remove contaminated vegetation and pea gravel from the Site and surrounding properties.

28. From April 6, 2022, and continuing to the date of filing this Verified Complaint, absorbent booms, which are used as a mechanism to reduce any spill or release from traveling further, were deployed in the Wetland Area.

29. Even after the trenches were vacuumed to remove the water and gasoline, groundwater continued to enter the trenches and to become contaminated by the gasoline which remained mixed with the pea gravel.

30. At the time of filing of this Verified Complaint, gasoline from the Release has contaminated approximately 5 acres of Wetland Area, as well as the Site, the ditch to the south of the Site, and the culvert running under Illinois Route 64.

31. As of the date of filing of this Verified Complaint, Defendants have not performed complete on-site and off-site investigations regarding the Release.

32. Section 43(a) of the Act, 415 ILCS 5/43(a) (2020), provides as follows:

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.

33. From at least April 6, 2022, and continuing up through the date of the filing of this Verified Complaint, the uncontrolled Release of gasoline from underground gasoline storage tanks 5, 6, and 7, owned by Defendant LB Five and operated by Defendant OASIS, contaminated soil, surface water, Wetland Area, and groundwater at and surrounding the Site. The Release has also emitted vapors posing a potential inhalation hazard to all persons in the vicinity of the Site, as well as the continuing risk of potential explosion or fire.

34. As of the filing date of this Verified Complaint, threats remain of (1) continued migration of gasoline through soil and pea gravel into surface water and groundwater at and surrounding the Site; and (2) continued migration of gasoline vapors through the soil at and surrounding the Site, causing a threat to human health and the environment and creating a fire hazard.

35. By causing and allowing liquid gasoline to be released from underground gasoline storage tanks 5, 6, and 7 at the Site and the migration offsite and into soil, surface water, and

groundwater, Defendant LB FIVE, as the owner of the gas station and the underground gasoline storage tanks at the Site, and Defendant OASIS, as the operator of the gas station and the underground gasoline storage tanks at the Site, have created circumstances of substantial danger to the environment, and to the public health and welfare, in direct contravention of the requirements of the Act.

36. The substantial danger alleged herein shall continue until such time that Defendants control any gasoline and/or petroleum products that were released from the Site, remove any gasoline from soils, surface water, and groundwater at and surrounding the Site, including, but not limited to the Wetland Area, and investigate and remediate any contamination of soil, surface water, and groundwater, at and surrounding the Site, including but not limited to the Wetland Area and any other impacted area.

37. 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, prays that this Court enter an immediate and preliminary injunction and, after trial, a permanent injunction, in favor of Plaintiff and against Defendants, LB FIVE, LLC, SERIES E and OASIS LILY LAKE, INC., on Count I, as follows:

1. Finding that Defendants created and are maintaining a substantial danger to the environment and public health and welfare;
2. Enjoining Defendants from creating any further substantial endangerment pursuant to Section 43(a) of the Act, 415 ILCS 5/43(a) (2020);

3. Ordering Defendants to immediately investigate and eliminate the cause of the gasoline contamination at the Site;

4. Ordering Defendants to remediate and abate all impacts at the Site and on all surrounding properties, including but not limited to the Wetland Area;

5. Ordering Defendants to conduct soil, surface water, and groundwater testing as directed by Illinois EPA, to delineate the nature and scope of gasoline contamination at and off the Site;

6. Ordering Defendants to remediate all subsurface gasoline contamination at and off the Site in accordance with the Act and pertinent regulations, in consultation with Illinois EPA;

7. Ordering Defendants, pursuant to Section 42(f) of the Act, 415 ILCS 4/42(f), to pay all costs incurred by the State, including oversight, sampling and clean-up costs, and attorney, expert witness and consultant fees expended by Plaintiff in pursuit of this action; and,

8. Granting such other relief as this Court deems equitable and just.

COUNT II
CAUSING, THREATENING, OR ALLOWING 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 at the request of the Illinois EPA, against Defendant LB FIVE, LLC, SERIES E, an Illinois limited liability company, and on his own motion against Defendant OASIS LILY LAKE, INC., an Illinois corporation, pursuant to the terms and provisions of Section 42(d) and (e) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/42(d) and (e) (2020).

2-33. Plaintiff re-alleges and incorporates herein by reference paragraphs 2 through 31 and paragraphs 33 through 34 of Count I, as paragraphs 2 through 33 of this Count II.

34. 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.

35. Section 3.315 of the Act, 415 ILCS 5/3.315 (2020), defines person as:

“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.

36. Defendant LB FIVE, a limited liability company, is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2020).

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

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

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

39. The gasoline released from the underground gasoline storage tanks at the Site is a “contaminant” as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2020).

40. 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 to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

41. Section 3.550 of the Act, 415 ILCS 5/3.550 (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 this State.

42. Surface water in the trenches, drainage basin, drainage ditch, culvert under Illinois Route 64, and Wetland Area and groundwater at and surrounding the Site are each a “water,” as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

43. Gasoline released at the Site onto the ground, which contaminated and threatened to contaminate surface water and groundwater at the Site and surrounding properties, including but not limited to the drainage ditch and Wetland Area, rendered such water, or threatened to render such waters, harmful or detrimental or injurious to public health, safety or welfare. The releases thereby resulted in “water pollution,” as that term is defined in Section 3.545 of the Act, 415 ILCS 5/3.545 (2020).

44. By releasing gasoline into waters of the State of Illinois, Defendant LB FIVE, as the owner of the gas station and the underground gasoline storage tanks at the Site, and Defendant OASIS, as the operator of the gas station and the underground gasoline storage tanks at the Site, caused, threatened, or 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).

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

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter an immediate and preliminary injunction and, after trial, a permanent injunction, in favor of Plaintiff and against Defendants, LB FIVE, LLC, SERIES E, and OASIS LILY LAKE, INC., on Count II, as follows:

1. Finding that Defendants violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020);
2. Enjoining Defendants from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2020);
3. Ordering Defendants to immediately investigate and eliminate the cause of the gasoline contamination at the Site;
4. Ordering Defendants to remediate and abate all impacts at the Site and on all surrounding properties, including but not limited to the Wetland Area;
5. Ordering Defendants to conduct soil, surface water, and groundwater testing as directed by Illinois EPA, to delineate the nature and scope of gasoline contamination at and off the Site;
6. Ordering Defendants to remediate all subsurface gasoline contamination at and off the Site in accordance with the Act and pertinent regulations, in consultation with Illinois EPA;

7. Ordering Defendants 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);

8. Assessing against each Defendant, pursuant to Section 42(a) of the Act, 415 ILCS 5/12(a) (2020), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2020), with an additional penalty of Ten Thousand Dollars (\$10,000.00) per day of violation;

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

10. Granting such other relief as this Court deems equitable and just.

COUNT III
CAUSING OR ALLOWING A WATER POLLUTION HAZARD

1-41. Plaintiff re-alleges and incorporates herein by reference paragraphs 1 through 33 and paragraphs 35 through 42 of Count II, as paragraphs 1 through 41 of this Count III.

42. Section 12(d) of the Act, 415 ILCS 5/12(d) (2020), provides in pertinent part, as follows:

No person shall:

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

43. By causing or allowing the release of gasoline from the underground storage tanks upon the land in a place and manner, where the gasoline threatened to enter or entered the Wetland Area, ditch, culvert, or other waters of the State, Defendant LB FIVE, as the owner of the gas station and the underground gasoline storage tanks at the Site, and Defendant OASIS, as the

operator of the gas station and the underground gasoline storage tanks at the Site, deposited contaminants upon the land, so as to create a water pollution hazard in violation of Section 12(d) of the Act, 415 ILCS 5/12(d) (2020).

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

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter an order granting a preliminary injunction and after a trial, a permanent injunction, in favor of Plaintiff and against Defendants, LB FIVE, LLC, SERIES E, and OASIS LILY LAKE, INC. on Count III, as follows:

1. Finding that Defendants violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020);
2. Enjoining Defendants from any further violations of Section 12(d) of the Act, 415 ILCS 5/12(d) (2020);
3. Ordering Defendants to immediately investigate and eliminate the cause of the gasoline contamination at the Site;
4. Ordering Defendants to remediate and abate all impacts at the Site and on all surrounding properties, including but not limited to the Wetland Area;
5. Ordering Defendants to conduct soil, surface water, and groundwater testing as directed by Illinois EPA, to delineate the nature and scope of gasoline contamination at and off the Site;
6. Ordering Defendants to remediate all subsurface gasoline contamination at and off the Site in accordance with the Act and pertinent regulations, in consultation with Illinois EPA;

7. Ordering Defendants 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);

8. Assessing against each 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 violation of Section 12(d) of Act, 415 ILCS 5/12(d) (2020), with an additional penalty of Ten Thousand Dollars (\$10,000.00) per day of violation;

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

10. Granting such other relief as this Court deems equitable and just.

COUNT IV
CAUSING OFFENSIVE CONDITIONS

1-39. Plaintiff re-alleges and incorporates herein by reference paragraphs 1 through 37 and paragraphs 41 through 42 of Count II, as paragraphs 1 through 39 of this Count IV.

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

Waters of the State shall be free from sludge or bottom deposits, floating debris, visible oil, odor, plant or algal growth, color or turbidity of other than natural origin. The allowed mixing provisions of Section 302.102 shall not be used to comply with the provisions of this Section.

41. By releasing gasoline at the Site, such that it entered the Wetland Area, as well as the ditch, and culvert, Defendants introduced visible oil, sludge, odor, and liquid with a color and turbidity of other than natural origin into a water of the State in violation of Section 302.203 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 302.203.

42. By violating Section 302.203 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 302.203, Defendant LB FIVE, as the owner of the gas station and the underground gasoline storage tanks at the Site, and Defendant OASIS, as the operator of the gas station and the underground gasoline storage tanks at the Site, thereby also violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

43. 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 Defendants, LB FIVE, LLC, SERIES E, and OASIS LILY LAKE, INC., on Count IV, as follows:

1. Finding that Defendants violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020), and Section 302.203 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 302.203;

2. Enjoining Defendants from any further violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2020), and Section 302.203 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 302.203;

3. Ordering Defendants to immediately investigate and eliminate the cause of the gasoline contamination at the Site;

4. Ordering Defendants to remediate and abate all impacts at the Site and on all surrounding properties, including but not limited to the Wetland Area;

5. Ordering Defendants to conduct soil, surface water, and groundwater testing as directed by Illinois EPA, to delineate the nature and scope of gasoline contamination at and off the Site;

6. Ordering Defendants to remediate all subsurface gasoline contamination at and off the Site in accordance with the Act and pertinent regulations, in consultation with Illinois EPA;

7. Ordering Defendants to remediate and abate all impacts at the Site and on all surrounding properties, including but not limited to the Wetland Area;

8. Ordering Defendants to conduct soil, surface water, and groundwater testing as directed by Illinois EPA, to delineate the nature and scope of gasoline contamination at and off the Site;

9. Ordering Defendants to remediate all subsurface gasoline contamination at and off the Site in accordance with the Act and pertinent regulations, in consultation with Illinois EPA;

10. Ordering Defendants 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), and Section 302.203 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 302.203;

11. Assessing against each Defendant, pursuant to Section 42(a) of the Act, 415 ILCS 5/12(a) (2020), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2020), with an additional penalty of Ten Thousand Dollars (\$10,000.00) per day of violation;

12. Ordering Defendants, 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 Plaintiff in its pursuit of this action; and,

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

COUNT V
OPEN DUMPING OF WASTE RESULTING IN DEPOSITION OF WASTE IN
STANDING OR FLOWING WATERS

1-36. Plaintiff re-alleges and incorporates by reference herein paragraphs 1 through 33 and paragraphs 35 through 37 of Count II, as paragraphs 1 through 36 of this Count V.

37. The Site has never been permitted by Illinois EPA for the disposal of waste.

38. Section 21(a) of the Act, 415 ILCS 5/21(a) (2020), provides as follows:

No person shall:

(a) Cause or allow the open dumping of any waste.

39. Section 3.305 of the Act, 415 ILCS 5/3.305 (2020), provides the following definition:

“Open dumping” means the consolidation of refuse from one or more sources at a disposal site that does not fulfill the requirements of a sanitary landfill.

40. Section 3.385 of the Act, 415 ILCS 5/3.385 (2020), provides the following definition:

“Refuse” means waste.

41. 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...

42. Section 3.540 of the Act, 415 ILCS 5/3.540 (2020), provides the following definition:

“Waste disposal site” is a site on which solid waste is disposed.

43. 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.

44. Section 3.445 of the Act, 415 ILCS 5/3.445 (2020), provides, pertinent part, as follows:

“Sanitary landfill” means a facility permitted by the Agency for the disposal of waste. . .

45. The gasoline which Defendants leaked, spilled, discharged or otherwise deposited onto soils at the Site and surrounding areas, was discarded by Defendants, and therefore constitutes “waste” as that term is defined in Section 3.535 of the Act, 415 ILCS 5/3.535 (2020), and “refuse” as that term is defined in Section 3.385 of the Act, 415 ILCS 5/3.385 (2020).

46. Defendants’ leaking, spilling, discharging and/or depositing of gasoline onto the ground at the Site, such that it migrated or threatened to migrate into the subsurface soils, surface water, and groundwater, and such that gasoline vapors were emitted into the air, constitutes “disposal” as that term is defined in Section 3.185 of the Act, 415 ILCS 5/3.185 (2020).

47. The areas of the Site where Defendants caused or allowed the disposal of gasoline constitutes a “waste disposal site” as that term is defined in Section 3.540 of the Act, 415 ILCS 5/3.540 (2020).

48. Because the Site has never been permitted by Illinois EPA for the disposal of waste, it does not meet the requirements of a “sanitary landfill,” as that term is defined in Section 3.445 of the Act, 415 ILCS 5/3.445 (2020).

49. Defendants' spilling, dumping, depositing, or placing of waste on the ground at the Site constitutes "open dumping," as that term is defined in Section 3.305 of the Act, 415 ILCS 5/3.305 (2020).

50. By spilling, leaking, and/or discharging gasoline on the ground at the Site, Defendant LB FIVE, as the owner of the gas station and the underground gasoline storage tanks at the Site, and Defendant OASIS, as the operator of the gas station and the underground gasoline storage tanks at the Site, caused or allowed the open dumping of waste, and thereby violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2020).

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

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Court grant a preliminary injunction and, after trial, a permanent injunction in favor of the Plaintiff and against Defendants, LB FIVE, LLC, SERIES E, and OASIS LILY LAKE, INC., on Count V, as follows:

1. Finding that Defendants violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2020);
2. Enjoining Defendants from further violations of Section 21(a) of the Act, 415 ILCS 5/21(a) (2020);
3. Ordering Defendants to immediately investigate and eliminate the cause of the gasoline contamination at the Site;
4. Ordering Defendants to remediate and abate all impacts at the Site and on all surrounding properties, including but not limited to the Wetland Area;

5. Ordering Defendants to conduct soil, surface water, and groundwater testing as directed by Illinois EPA, to delineate the nature and scope of gasoline contamination at and off the Site;

6. Ordering Defendants to remediate all subsurface gasoline contamination at and off the Site in accordance with the Act and pertinent regulations, in consultation with Illinois EPA;

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

9. Assessing against each Defendant, pursuant to Section 42(a) of the Act, 415 ILCS 5/12(a) (2020), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2020), with an additional penalty of Ten Thousand Dollars (\$10,000.00) per day of violation;

10. Ordering Defendants, pursuant to Section 42(f) of the Act, 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 Plaintiff in pursuit of this action; and

11. Granting such other relief as this Court deems equitable and just.

COUNT VI
DUMPING WASTE UPON PUBLIC PROPERTY

1-38. Plaintiff re-alleges and incorporates by reference herein paragraphs 1 through 33 and paragraphs 35 through 37 of Count II, and paragraphs 41 and 45 of Count V, as paragraphs 1 through 38 of this Count VI.

39. The gasoline dumped, deposited or spilled into a drainage ditch and culvert by Defendants was “waste” as defined by Section 3.535 of the Act, 415 ILCS 5/3.535 (2020).

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

No person shall:

- (b) Abandon, dump, or deposit any waste upon the public highways or other public property, except in a sanitary landfill approved by the Agency pursuant to regulations adopted by the Board.

41. By dumping, depositing or spilling approximately 8,000 gallons of gasoline into a drainage ditch and culvert owned by the State of Illinois, Defendant LB FIVE, as the owner of the gas station and the underground gasoline storage tanks at the Site, and Defendant OASIS, as the operator of the gas station and the underground gasoline storage tanks at the Site, abandoned, dumped, or deposited waste upon a public property.

42. By dumping, depositing or spilling approximately 8,000 gallons of gasoline into a drainage ditch and culvert owned by the State of Illinois, Defendant LB FIVE, as the owner of the gas station and the underground gasoline storage tanks at the Site, and Defendant OASIS, as the operator of the gas station and the underground gasoline storage tanks at the Site, violated Section 21(b) of the Act, 415 ILCS 5/21(b) (2020).

43. Violations of the pertinent environmental statutes and regulations will continue until and unless this Court grants equitable relief in the form of an immediate and, after trial, permanent injunction.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Court grant a preliminary injunction and, after trial, a permanent injunction in favor of the Plaintiff and against Defendants, LB FIVE, LLC, SERIES E, and OASIS LILY LAKE, Inc., on Count VI, as follows:

1. Finding that Defendants violated Section 21(b) of the Act, 415 ILCS 5/21(b) (2020);

2. Enjoining Defendants from further violations of Section 21(b) of the Act, 415 ILCS 5/21(b) (2020);
3. Ordering Defendants to immediately investigate and eliminate the cause of the gasoline contamination at the Site;
4. Ordering Defendants to remediate and abate all impacts at the Site and on all surrounding properties, including but not limited to the Wetland Area;
5. Ordering Defendants to conduct soil, surface water, and groundwater testing as directed by Illinois EPA, to delineate the nature and scope of gasoline contamination at and off the Site;
6. Ordering Defendants to remediate all subsurface gasoline contamination at and off the Site in accordance with the Act and pertinent regulations, in consultation with Illinois EPA;
7. Ordering Defendants to undertake all necessary corrective action that will result in a final and permanent abatement of the violations of Section 21(b) of the Act, 415 ILCS 5/21(b) (2020);
8. Assessing against each Defendant, pursuant to Section 42(a) of the Act, 415 ILCS 5/12(a) (2020), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2020), with an additional penalty of Ten Thousand Dollars (\$10,000.00) per day of violation;
9. Ordering Defendants, pursuant to Section 42(f) of the Act, 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 Plaintiff in pursuit of this action; and
10. Granting such other relief as this Court deems equitable and just.

COUNT VII
UNAUTHORIZED WASTE DISPOSAL

1-44. Plaintiff re-alleges and incorporates by reference herein paragraphs 1 through 33 and paragraphs 35 through 37 of Count II, and paragraphs 41 through 48 of Count V, as paragraphs 1 through 44 of this Count VII.

45. 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.

46. By disposing or abandoning gasoline at and around the Site, which was not permitted for the disposal of waste, Defendant LB FIVE, as the owner of the gas station and the underground gasoline storage tanks at the Site, and Defendant OASIS, as the operator of the gas station and the underground gasoline storage tanks at the Site, disposed or abandoned waste at a site that does not meet the requirement of the Act and of regulations and standards thereunder, and thereby violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2020).

47. 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 Defendants, LB FIVE, LLC, SERIES E, and OASIS LILY LAKE, INC., on Count VII, as follows:

1. Finding that Defendants violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2020);
2. Enjoining Defendants from any further violations of Section 21(e) of the Act, 415 ILCS 5/21(e) (2020);
3. Ordering Defendants to immediately investigate and eliminate the cause of the gasoline contamination at the Site;
4. Ordering Defendants to remediate and abate all impacts at the Site and on all surrounding properties, including but not limited to the Wetland Area;
5. Ordering Defendants to conduct soil, surface water, and groundwater testing as directed by Illinois EPA, to delineate the nature and scope of gasoline contamination at and off the Site;
6. Ordering Defendants to remediate all subsurface gasoline contamination at and off the Site in accordance with the Act and pertinent regulations, in consultation with Illinois EPA;
7. Ordering Defendants 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);
8. Assessing against each Defendant, pursuant to Section 42(a) of the Act, 415 ILCS 5/12(a) (2020), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2020), with an additional penalty of Ten Thousand Dollars (\$10,000.00) per day of violation;
9. Ordering Defendants, 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 Plaintiff in pursuit of this action; and

10. 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: /s/ Stephen Sylvester
STEPHEN SYLVESTER, Chief
Environmental Bureau
Assistant Attorney General

Of Counsel:

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**IN THE CIRCUIT COURT OF THE SIXTEENTH JUDICIAL CIRCUIT
KANE COUNTY, ILLINOIS
CHANCERY DIVISION**

PEOPLE OF THE STATE OF ILLINOIS,)	
<i>ex rel.</i> KWAME RAOUL, Attorney)	
General of the State Illinois,)	
)	
Plaintiff,)	No.
)	
v.)	
)	
LB FIVE, LLC, SERIES E, an Illinois)	
limited liability company, and OASIS)	
LILY LAKE, INC., an Illinois corporation,)	
)	
Defendants.)	

VERIFICATION

I, Charles Curtis, do state as follows:

1. I am currently employed by the Illinois Environmental Protection Agency, Office of Emergency Response (“Illinois EPA-OER”) in Des Plaines, Illinois as an Environmental Protection Specialist III/On Scene Coordinator.

2. I have been employed by the Illinois EPA for the past 30 years with the last eight years in my current position.

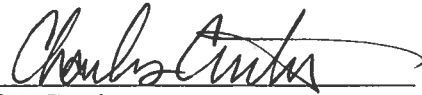
3. The duties and responsibilities of my current position include: coordinating Illinois EPA’s role with other local and state agencies, responsible parties, and contractors to eliminate, mitigate and prevent environmental impacts from emergencies; investigate releases and the extent of releases; respond to emergency hazardous material incidents involving harm or threats of harm to the general public and environment; and define areas of threat to the public health and environment.

4. I have read the foregoing Verified Complaint for Injunctive Relief and Civil

Penalties (the "Complaint"), and am aware of the contents thereof.

5. The factual matters set forth in Paragraphs 5 through 10, 15, and 17 through 31 of Count I of 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, 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.



Charles Curtis
Illinois Environmental Protection Agency

Dated: 4-25-22

**IN THE CIRCUIT COURT OF THE SIXTEENTH JUDICIAL CIRCUIT
KANE COUNTY, ILLINOIS
CHANCERY DIVISION**

PEOPLE OF THE STATE OF ILLINOIS,)	
<i>ex rel.</i> KWAME RAOUL, Attorney)	
General of the State Illinois,)	
)	
Plaintiff,)	No.
)	
v.)	
)	
LB FIVE, LLC, SERIES E, an Illinois)	
limited liability company, and OASIS)	
LILY LAKE, INC., an Illinois corporation,)	
)	
Defendants.)	

VERIFICATION

I, Matt Hanson, do state as follows:

1. I am currently employed by the Elburn & Countryside Fire Protection District (“FPD”) in Elburn, Illinois as an Assistant Fire Chief.
2. I have been employed by the FPD for approximately 19 years with the last three and half years in my current position.
3. The duties and responsibilities of my current position include: being a shift supervising chief officer, responding to emergency response calls, supervising day to day operations at the Elburn FPD station, acting as an initial responder to emergencies, and coordinating efforts among state and local agencies addressing emergency scene mitigation.
4. The following factual matters are true in substance and in fact, to the best of my knowledge, information and belief:
 11. *Gasoline vapors are also potentially explosive and therefore create a fire hazard in enclosed spaces.*

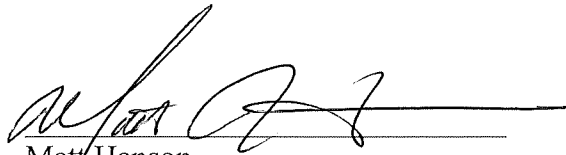
12. On April 6, 2022, at approximately 3:21 a.m., a 911 call was received by Elburn and Countryside Fire Protection District ("FPD") describing a strong gasoline odor in the area of the gasoline station located at 44 W 322 Illinois Route 64, Lily Lake, Kane County, Illinois ("Site").

13. On April 6, 2022, at approximately 3:27 a.m., FPD arrived at the Site to conduct a gasoline odor investigation.

14. On April 6, 2022, during the early morning, FPD observed a strong gasoline odor and a visible sheen of gasoline and rainwater runoff flowing across the Site in a southeast direction toward a stormwater ditch running east along Illinois Route 64 and into a culvert moving south under Illinois Route 64.

16. On April 6, 2022, due to potential safety concerns, including the presence of gasoline vapors, Illinois Route 64 from Illinois Route 47 east to Hanson Road was closed to traffic and the electricity to the Site was turned off.

5.. Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this 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.



Matt Hanson
Assistant Chief
Elburn & Countryside Fire Protection District
Dated: 4-25-22