

April 19, 2022

ATTORNEY GENERAL RAOUL FILES SUIT TO ENSURE PROPER CLEANUP AFTER FUEL SPILL

Chicago — Attorney General Kwame Raoul today announced a lawsuit against Fuel South Express, LLC, in relation to the release of thousands of gallons of fuel from a tanker truck that occurred April 6 in Madison County.

[According to Raoul's lawsuit](#), the tanker truck overturned and spilled 8,000 gallons of its 9,000-gallon load of fuel near the intersection of Illinois Route 3 and St. Thomas Road around Granite City, Illinois. The tanker truck was carrying 6,400 gallons of reformulated gasoline and 2,600 gallons of ultra-low sulfur diesel fuel. The release occurred during heavy rain, and the spilled fuel traveled at least 200 feet in both directions, spreading into three ditches, a culvert and adjacent farm fields.

"If not immediately remediated, spilled fuel can cause significant damage to the environment as well as present dangers to human health," Raoul said. "Our complaint seeks to require Fuel South Express to take action to address this spill and ensure that any lingering environmental threats posed to the area are permanently abated."

The complaint seeks to require Fuel South Express to take immediate action to address any impact the release has had on the roads, medians, farmland and groundwater, as well as any other potential impacts to the environment. The filing also seeks to prevent conditions at the site from worsening and to require that Fuel South Express enter the state's Site Remediation Program to ensure oversight of the cleanup.

The filing follows a referral from the Illinois Environmental Protection Agency to the Illinois Attorney General's office under the Illinois Environmental Protection Act.

"This was a serious situation, made worse by difficult weather conditions, which led to spilled fuel going beyond the roadway and causing significant impacts in adjacent medians and farmland," Illinois EPA Director John J. Kim said. "The Illinois EPA referred this emergency matter to the Attorney General's Office to allow for a quick response, and we will work closely with their staff to ensure all environmental impacts are addressed and remediated."

Assistant Attorneys General Raymond Callery, Bridget Flynn and Natalie Long are handling the case for Raoul's Environmental Bureau.

IN THE CIRCUIT COURT FOR THE THIRD JUDICIAL CIRCUIT
MADISON COUNTY, ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,)
ex rel. KWAME RAOUL, Attorney General)
of the State of Illinois,)
)
Plaintiff,)
)
v.) No. 2022CH000023
)
FUEL SOUTH EXPRESS, LLC,)
a Georgia limited liability company,)
)
Defendant.)

VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF AND CIVIL PENALTIES

Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* KWAME RAOUL, Attorney General of the State of Illinois, on his own motion and at the request of the Illinois Environmental Protection Agency, complains of Defendant, FUEL SOUTH EXPRESS, LLC, a Georgia limited liability company, as follows:

COUNT I
SUBSTANTIAL ENDANGERMENT
TO THE ENVIRONMENT AND THE 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 Environmental Protection Agency (“Illinois EPA”), pursuant to the terms and provisions of Section 43(a) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/43(a) (2020), and is an action to restrain a substantial danger to the environment and human health.

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 Fuel South Express, LLC (“Defendant”) has been an active Georgia limited liability company authorized to do business in the State of Illinois since September 23, 2020.

4. Defendant’s principal office is located at 19500 Bulverde Road, San Antonio, Texas, 78259. Defendant’s registered agent is Illinois Corporation Service Company, located at 801 Adlai Stevenson Drive, Springfield, Illinois, 62703.

5. On April 6, 2022, at approximately 12:45 a.m., a tanker truck marked with a Circle K logo, owned and operated by Defendant, overturned and spilled 8,000 gallons of its 9,000-gallon load of fuel (“Release”) near the intersection of Illinois Route 3 and St. Thomas Road in or near Granite City, Madison County, Illinois (“Site”).

6. The tanker truck was carrying 6,400 gallons of reformulated gasoline and 2,600 gallons of ultra-low sulfur diesel fuel (B11). One thousand (1,000) gallons of fuel were vacuumed out of the tanker truck.

7. The Release occurred during a heavy rain event, resulting in fuel pooling in the median and traveling at least two hundred (200) feet in both directions on both sides of the road, spreading into three ditches—one on either side of the road, and one in the median—as well as into a culvert and onto adjacent farm fields. Emergency responders attempted to block the nearby culvert to slow or stop the migration of fuel to groundwater.

8. Spills of reformulated gasoline, diesel fuel, and biodiesel fuel can result in contamination of soil, surface waters, and groundwater. Components of these fuels can cause

various toxicological effects ranging from skin irritation to cancer, depending upon the type of exposure. Both human and ecological receptors may eventually be affected. The effects of exposure may be gradual and cumulative. Maximizing the amount of fuel that is recovered will lessen any eventual impacts.

9. A creek and a wetland are both situated within the immediate vicinity of the Site, as are other bodies of water.

10. 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 or her 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.

11. Defendant caused or allowed a release of reformulated gasoline and ultra-low sulfur diesel fuel (B11) from the tanker truck, which migrated into the median, and traveled at least two hundred (200) feet in both directions on both sides of the road, spreading into multiple ditches, a culvert, and adjacent farm fields, within the vicinity of a creek and wetland. The release threatens soil, groundwater, and surface waters. Work to remediate the Site and surrounding areas is ongoing.

12. Currently, unknown quantities of reformulated gasoline and ultra-low sulfur diesel fuel (B11) remain in the soil, groundwater, and surface waters at and around the Site.

13. Because of the dangerous nature of reformulated gasoline and ultra-low sulfur diesel fuel (B11) and their harmful effects on human health and the environment, the Release from

the Site has created circumstances of substantial danger to the environment and to the public health and welfare.

14. Without immediate action to remediate remaining contamination, the Release will continue to create circumstances of substantial danger to the environment and to the public health and welfare.

PRAYER FOR RELIEF

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

A. Finding that Defendant, Fuel South Express, LLC, has created and is maintaining a substantial danger to the environment, public health, and public welfare;

B. Ordering Defendant, Fuel South Express, LLC, to immediately cease and desist from causing or allowing the release and deposition of reformulated gasoline and ultra-low sulfur diesel fuel (B11) from and at the Site so as to cause or potentially cause adverse impacts to the environment, public health, and public welfare;

C. Ordering Defendant, Fuel South Express, LLC, to immediately undertake all necessary corrective action that will result in a final and permanent abatement of the substantial danger to the environment, public health, and public welfare, including but not limited to:

- i. Investigate any drains, ditches, roadways, adjacent fields, and sewer systems at and around the Site for the impact of constituents of concern;
- ii. Collect and remove all free product from the surface water;
- iii. Collect all contaminated surface water;
- iv. Collect and remediate all contaminated soils;

- v. Properly dispose of all collected liquids, soils and remediation waste at a facility permitted by Illinois EPA to accept them;
 - vi. Apply to enroll all impacted areas within the State of Illinois's Site Remediation Program and take all actions required under that program to address onsite and offsite areas of concern;
 - vii. Obtain a No-Further-Remediation ("NFR") letter for the Site; and
 - viii. Submit records detailing the amount of and final disposition of all contaminated soils, water and other fluids, groundwater and/or wastes to Plaintiff within fourteen (14) days of Defendant's receipt of such; and
- D. Granting such other and further relief as this Court deems equitable and just.

COUNT II
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, pursuant to Sections 42(d) and (e) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/42(d) and (e) (2020).

2.-14. Plaintiff re-alleges and incorporates by reference herein paragraphs 2 through 14 of Count I as paragraphs 2 through 14 of this Count II.

15. 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.

16. Section 3.315 of the Act, 415 ILCS 5/3.315 (2020), provides as follows:

"Person" is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

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

18. Section 3.165 of the Act, 415 ILCS 5/3.165 (2020), provides as follows:

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

19. Reformulated gasoline and ultra-low sulfur diesel fuel (B11) are each a “contaminant” as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2020).

20. Section 3.545 of the Act, 415 ILCS 5/3.545 (2020), provides as follows:

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

21. Section 3.550 of the Act, 415 ILCS 5/3.550 (2020), provides as follows:

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

22. The three ditches, culvert, creek, wetland, and groundwater at and near the Site are “waters,” as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

23. The release of reformulated gasoline and ultra-low sulfur diesel fuel (B11) from the Site to waters of the State rendered, or was likely to have rendered, such waters harmful, detrimental, and injurious, thereby causing “water pollution,” as that term is defined in Section 3.545 of the Act, 415 ILCS 5/3.545 (2020).

24. By causing, threatening, or allowing the discharge of reformulated gasoline and ultra-low sulfur diesel fuel (B11) into waters of the State so as to cause or tend to cause water

pollution, Defendant violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

25. 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.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, People of the State of Illinois, respectfully requests that this Court grant the following relief on this Count II:

- A. Finding Defendant has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020);
- B. Enjoining Defendant from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2020);
- C. Ordering Defendant to immediately undertake the necessary corrective action that will result in a final and permanent abatement of violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2020), including but not limited to:
 - i. Investigate any drains, ditches, roadways, adjacent fields, and sewer systems at and around the Site for the impact of constituents of concern;
 - ii. Collect and remove all free product from the surface water;
 - iii. Collect all contaminated surface water;
 - iv. Collect and remediate all contaminated soils;
 - v. Properly dispose of all collected liquids, soils and remediation waste at a facility permitted by Illinois EPA to accept them;
 - vi. Apply to enroll all impacted areas within the State of Illinois's Site Remediation Program and take all actions required under that program to address onsite and offsite areas of concern;
 - vii. Obtain a No-Further-Remediation ("NFR") letter for the Site; and

- viii. Submit records detailing the amount of and final disposition of all contaminated soils, water and other fluids, groundwater and/or wastes to Plaintiff within fourteen (14) days of Defendant's receipt of such;

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D. Assessing against Defendant a civil penalty not to exceed Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, and an additional civil penalty not to exceed Ten Thousand Dollars (\$10,000.00) for each day of each violation, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2020);

E. Awarding Plaintiff its costs in this matter, including reasonable attorney's fees and costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2020); and

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

COUNT III
WATER POLLUTION HAZARD

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, pursuant to Sections 42(d) and (e) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/42(d) and (e) (2020).

2.-24. Plaintiff re-alleges and incorporates by reference herein paragraphs 2 through 14 of Count I, and paragraphs 15 through 24 of Count II, as paragraphs 2 through 24 of this Count III.

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

No person shall:

* * *

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

26. By depositing reformulated gasoline and ultra-low sulfur diesel fuel (B11), which are contaminants, upon land in such a manner that they traveled to waters of the State, Defendant

deposited contaminants upon the land in such a place and manner as to create a water pollution hazard in violation of Section 12(d) of the Act, 415 ILCS 5/12(d) (2020).

27. 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.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, People of the State of Illinois, respectfully requests that this Court grant the following relief on this Count III:

- A. Finding Defendant has violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020);
- B. Enjoining Defendant from further violation of Section 12(d) of the Act, 415 ILCS 5/12(d) (2020);
- C. Ordering Defendant to take immediate corrective action which will result in a final and permanent abatement of the violations of Section 12(d) of the Act, 415 ILCS 5/12(d) (2020), including but not limited to:
 - i. Investigate any drains, ditches, roadways, adjacent fields, and sewer systems at and around the Site for the impact of constituents of concern;
 - ii. Collect and remove all free product from the surface water;
 - iii. Collect all contaminated surface water;
 - iv. Collect and remediate all contaminated soils;
 - v. Properly dispose of all collected liquids, soils and remediation waste at a facility permitted by Illinois EPA to accept them;
 - vi. Apply to enroll all impacted areas within the State of Illinois's Site Remediation Program and take all actions required under that program to address onsite and offsite areas of concern; and
 - vii. Obtain a No-Further-Remediation ("NFR") letter for the Site; and

- viii. Submit records detailing the amount of and final disposition of all contaminated soils, water and other fluids, groundwater and/or wastes to Plaintiff within fourteen (14) days of Defendant's receipt of such;

D. Assessing against Defendant a civil penalty not to exceed Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, and an additional civil penalty not to exceed Ten Thousand Dollars (\$10,000.00) for each day of each violation, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2020);

E. Awarding Plaintiff its costs in this matter, including reasonable attorney's fees and costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2020); and

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

COUNT IV
OPEN DUMPING OF WASTE

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, pursuant to Sections 42(d) and (e) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/42(d) and (e) (2020).

2.-14. Plaintiff re-alleges and incorporates by reference herein paragraphs 2 through 14 of Count I as paragraphs 2 through 14 of this Count IV.

15. 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.

16. Section 3.305 of the Act, 415 ILCS 5/3.305 (2020), provides as follows:

"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.

17. Section 3.385 of the Act, 415 ILCS 5/3.385 (2020), provides as follows:

“Refuse” means waste.

18. Section 3.535 of the Act, 415 ILCS 5/3.535 (2020), provides, in pertinent part, as follows:

“Waste” means any . . . discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities . . .

19. The reformulated gasoline and ultra-low sulfur diesel fuel (B11) that the tanker truck released into the surrounding environment at the Site are “waste,” as that term is defined in Section 3.535 of the Act, 415 ILCS 5/3.535 (2020), and therefore also “refuse,” as that term is defined in Section 3.385 of the Act, 415 ILCS 5/3.385 (2020).

20. Section 3.460 of the Act, 415 ILCS 5/3.460 (2020), provides as follows:

“Site” means any location, place, tract of land, and facilities, including but not limited to buildings, and improvements used for purposes subject to regulation or control by this Act or regulations thereunder.

21. The Site is a “site” as that term is defined in Section 3.460 of the Act, 415 ILCS 5/3.460 (2020).

22. Section 3.185 of the Act, 415 ILCS 5/3.185 (2020), provides as follows:

“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.

23. The discharge, deposit, dumping, spilling, and leaking of reformulated gasoline and ultra-low sulfur diesel fuel (B11) at the Site constitutes “disposal,” as that term is defined in Section 3.185 of the Act, 415 ILCS 5/3.185 (2020).

24. The Site is a “site” on which reformulated gasoline and ultra-low sulfur diesel fuel (B11) has been “disposed,” as those terms are defined in Section 3.185 and 3.460 of the Act, 415 ILCS 5/3.185 and 3.460 (2020), making the Site a “disposal site” as that term is used in Section

3.305 of the Act, 415 ILCS 5/3.305 (2020).

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

“Sanitary landfill” means a facility permitted by the Agency for the disposal of waste on land meeting the requirements of the Resource Conservation and Recovery Act, P.L. 94-580, and regulations thereunder, and without creating nuisances or hazards to public health or safety, by confining the refuse to the smallest practical volume and covering it with a layer of earth at the conclusion of each day's operation, or by such other methods and intervals as the Board may provide by regulation.

26. The Site has never been permitted by Illinois EPA for the disposal of waste and therefore is not a “sanitary landfill” as that term is defined in Section 3.445 of the Act, 415 ILCS 5/3.445 (2020).

27. Defendant’s disposal of reformulated gasoline and ultra-low sulfur diesel fuel (B11) at the Site constitutes “open dumping” of waste, as that term is defined in Section 3.305 of the Act, 415 ILCS 5/3.305 (2020).

28. By causing or allowing the open dumping of waste, Defendant violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2020).

29. 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 hearing, permanent injunctive relief

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, People of the State of Illinois, respectfully requests that this Court grant the following relief on this Count IV:

- A. Finding Defendant has violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2020);
- B. Enjoining Defendant from further violation of Section 21(a) of the Act, 415 ILCS 5/21(a) (2020);

C. Ordering Defendant to take immediate corrective action which will result in a final and permanent abatement of the violations of Section 21(a) of the Act, 415 ILCS 5/21(a) (2020), including but not limited to:

- i. Investigate any drains, ditches, roadways, adjacent fields, and sewer systems at and around the Site for the impact of constituents of concern;
- ii. Collect and remove all free product from the surface water;
- iii. Collect all contaminated surface water;
- iv. Collect and remediate all contaminated soils;
- v. Properly dispose of all collected liquids, soils and remediation waste at a facility permitted by Illinois EPA to accept them;
- vi. Apply to enroll all impacted areas within the State of Illinois's Site Remediation Program and take all actions required under that program to address onsite and offsite areas of concern; and
- vii. Obtain a No-Further-Remediation ("NFR") letter for the Site; and
- viii. Submit records detailing the amount of and final disposition of all contaminated soils, water and other fluids, groundwater and/or wastes to Plaintiff within fourteen (14) days of Defendant's receipt of such;

D. Assessing against Defendant a civil penalty not to exceed Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, and an additional civil penalty not to exceed Ten Thousand Dollars (\$10,000.00) for each day of each violation, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2020);

E. Awarding Plaintiff its costs in this matter, including reasonable attorney's fees and costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2020); and

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

COUNT V
DUMPING WASTE UPON A PUBLIC HIGHWAY

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, pursuant to Sections 42(d) and (e) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/42(d) and (e) (2020).

2.-27. Plaintiff re-alleges and incorporates by reference herein paragraphs 2 through 14 of Count I, and paragraphs 15 through 27 of Count IV, as paragraphs 2 through 27 of this Count V.

28. Section 21(b) of the Act, 415 ILCS 5/21(b) (2020), provides 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.

29. By releasing reformulated gasoline and ultra-low sulfur diesel fuel (B11) onto a roadway in or near Granite City, Illinois, Defendant abandoned, dumped, or deposited waste upon a public highway.

30. By abandoning, dumping, or depositing waste upon a public highway, Defendant violated Section 21(b) of the Act, 415 ILCS 5/21(b) (2020).

31. 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.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, People of the State of Illinois, respectfully requests that this Court grant the following relief on this Count V:

- A. Finding Defendant has violated Section 21(b) of the Act, 415 ILCS 5/21(b) (2020);
- B. Enjoining Defendant from further violation of Section 21(b) of the Act, 415 ILCS 5/21(b) (2020);
- C. Ordering Defendant to take immediate corrective action which will result in a final and permanent abatement of the violations of Section 21(b) of the Act, 415 ILCS 5/21(b) (2020), including but not limited to:
 - i. Investigate any drains, ditches, roadways, adjacent fields, and sewer systems at and around the Site for the impact of constituents of concern;
 - ii. Collect and remove all free product from the surface water;
 - iii. Collect all contaminated surface water;
 - iv. Collect and remediate all contaminated soils;
 - v. Properly dispose of all collected liquids, soils and remediation waste at a facility permitted by Illinois EPA to accept them;
 - vi. Apply to enroll all impacted areas within the State of Illinois's Site Remediation Program and take all actions required under that program to address onsite and offsite areas of concern;
 - vii. Obtain a No-Further-Remediation ("NFR") letter for the Site; and
 - viii. Submit records detailing the amount of and final disposition of all contaminated soils, water and other fluids, groundwater and/or wastes to Plaintiff within fourteen (14) days of Defendant's receipt of such;
- D. Assessing against Defendant a civil penalty not to exceed Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, and an additional civil penalty not to exceed Ten Thousand Dollars (\$10,000.00) for each day of each violation, pursuant to Section 42(a) of the

Act, 415 ILCS 5/42(a) (2020);

E. Awarding Plaintiff its costs in this matter, including reasonable attorney's fees and costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2020); and

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

COUNT VI
ILLEGAL DISPOSAL OF WASTE

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, pursuant to Sections 42(d) and (e) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/42(d) and (e) (2020).

2.-31. Plaintiff re-alleges and incorporates by reference herein paragraphs 2 through 14 of Count I, paragraphs 15 through 28 of Count IV, and paragraphs 28 through 30 of Count V, as paragraphs 2 through 31 of this Count VI.

32. Section 21(e) of the Act, 415 ILCS 5/21(e) (2020), provides 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 the regulations and standards thereunder.

33. The Site does not meet the requirements of the Act and the regulations and standards promulgated thereunder for the disposal or storage of waste.

34. Defendant has disposed of and/or stored waste at the Site.

35. By disposing of and/or storing waste at the Site, Defendant has violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2020).

36. 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.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, People of the State of Illinois, respectfully requests that this Court grant the following relief on this Count VI:

- A. Finding Defendant has violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2020);
- B. Enjoining Defendant from further violation of Section 21(e) of the Act, 415 ILCS 5/21(e) (2020);
- C. Ordering Defendant to take immediate corrective action which will result in a final and permanent abatement of the violations of Section 21(e) of the Act, 415 ILCS 5/21(e) (2020), including but not limited to:
 - i. Investigate any drains, ditches, roadways, adjacent fields, and sewer systems at and around the Site for the impact of constituents of concern;
 - ii. Collect and remove all free product from the surface water;
 - iii. Collect all contaminated surface water;
 - iv. Collect and remediate all contaminated soils;
 - v. Properly dispose of all collected liquids, soils and remediation waste at a facility permitted by Illinois EPA to accept them;
 - vi. Apply to enroll all impacted areas within the State of Illinois's Site Remediation Program and take all actions required under that program to address onsite and offsite areas of concern;
 - vii. Obtain a No-Further-Remediation ("NFR") letter for the Site; and
 - viii. Submit records detailing the amount of and final disposition of all contaminated soils, water and other fluids, groundwater and/or wastes to Plaintiff within fourteen (14) days of Defendant's receipt of such;

D. Assessing against Defendant a civil penalty not to exceed Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, and an additional civil penalty not to exceed Ten Thousand Dollars (\$10,000.00) for each day of each violation, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2020);

E. Awarding Plaintiff its costs in this matter, including reasonable attorney's fees and costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2020); and

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

COUNT VII
COST RECOVERY

1. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* KWAME RAOUL, Attorney General of the State of Illinois, on his own motion, pursuant to Sections 42(d) and (e) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/42(d) and (e) (2020), and Section 10(d) of the Oil Spill Responders Liability Act, 740 ILCS 113/10(d) (2020).

2.-16. Plaintiff re-alleges and incorporates by reference herein paragraphs 2 through 14 of Count I, and paragraphs 16 through 17 of Count II, as paragraphs 2 through 16 of this Count VII.

17. In response to Defendant's release of reformulated gasoline and ultra-low sulfur diesel fuel (B11), Illinois EPA has incurred and will continue to incur costs for response, personnel, and oversight costs for the Site and surrounding area impacted by the release.

18. Section 25c-1(d) of the Act, 415 ILCS 5/25c-1(d) (2020), provides as follows:

In addition to any other authority provided by State or federal law, the [Illinois EPA] shall be entitled to recovery of costs incurred by it in response to releases and threats of release of petroleum from any persons who are responsible for causing, allowing, or threatening such releases.

19. Section 25c-1(c) of the Act, 415 ILCS 5/25c-1(c) (2020), provides as follows:

For the purposes of implementing this Section, “petroleum” means crude oil, refined petroleum, intermediates, fractions or constituents of petroleum, brine or saltwater from oil production, oil sheens, hydrocarbon vapors, and any other form of oil or petroleum.

20. Reformulated gasoline and ultra-low sulfur diesel fuel (B11) are forms of refined petroleum and therefore are “petroleum,” as that term is defined in Section 25c-1(c) of the Act, 415 ILCS 5/25c-1(c) (2020).

21. By incurring costs in response to Defendant’s release of petroleum, Illinois EPA is entitled to recover those costs from Defendant pursuant to Section 25c-1(d) of the Act, 415 ILCS 5/25c-1(d) (2020).

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

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

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

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

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

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

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

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

24. Section 1001 of the Oil Pollution Act of 1990, Public Law No. 101-380, which is now 33 U.S.C. § 2701 *et seq.*, defines “Responsible party,” in pertinent part, as follows:

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

25. Section 1001 of the Oil Pollution Act of 1990, Public Law No. 101-380, which is now 33 U.S.C. § 2701 *et seq.*, defines “onshore facility” as follows:

(24) “onshore facility” means any facility (including, but not limited to, motor vehicles and rolling stock) of any kind located in, on, or under, any land within the United States other than submerged land;

26. Defendant’s release of reformulated gasoline and ultra-low sulfur diesel fuel (B11) is a “discharge,” as that term is defined in Section 5 of the Oil Spill Responders Liability Act, 740 ILCS 113/5 (2020).

27. Reformulated gasoline and ultra-low sulfur diesel fuel (B11) are forms of petroleum and therefore are “oil,” as that term is defined in Section 5 of the Oil Spill Responders Liability Act, 740 ILCS 113/5 (2020).

28. Defendant, as the owner and operator of a tanker truck from which a discharge of oil occurred, is a “responsible party,” as that term is defined in Section 5 of the Oil Spill Responders Liability Act, 740 ILCS 113/5 (2020).

29. Illinois EPA has incurred and will continue to incur costs in response to Defendant’s discharge of reformulated gasoline and ultra-low sulfur diesel fuel (B11), which are “damages”

and “removal costs” as those terms are defined in Section 5 of the Oil Spill Responders Liability Act, 740 ILCS 113/5 (2020).

30. By incurring damages and removal costs resulting from or arising out of Defendant’s discharge of oil, Illinois EPA is entitled to recover those damages and removal costs from Defendant pursuant to Section 10(d) of the Oil Spill Responders Liability Act, 740 ILCS 113/10(d) (2020).

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Court grant the following relief:

A. Finding that Defendant is liable for the costs incurred by Illinois EPA in response to Defendant’s release of reformulated gasoline and ultra-low sulfur diesel fuel (B11), pursuant to Section 25c-1(d) of the Act, 415 ILCS 5/25c-1(d) (2020);

B. Finding that Defendant is liable for Illinois EPA’s response and oversight costs resulting from or arising out of Defendant’s release of reformulated gasoline and ultra-low sulfur diesel fuel (B11), pursuant to Section 10(d) of the Oil Spill Responders Liability Act, 740 ILCS 113/10(d) (2020); and

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

Respectfully submitted,

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/ Andrew Armstrong
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DATED: April 15, 2022

**IN THE CIRCUIT COURT FOR THE THIRD JUDICIAL CIRCUIT
MADISON COUNTY, ILLINOIS**

PEOPLE OF THE STATE OF ILLINOIS,)
ex rel. KWAME RAOUL, Attorney General)
of the State of Illinois,)
)
Plaintiff,)
)
v.)
)
FUEL SOUTH EXPRESS, LLC,)
a Georgia limited liability company,)
)
Defendant.)

No. _____

VERIFICATION

I, Andrew Zajicek, being duly sworn, on oath state as follows:

1. I am currently employed by the Illinois Environmental Protection Agency, Office of Emergency Response (“Illinois EPA-OER”) in Collinsville, Illinois as an On-Scene Coordinator.
2. I have been employed by Illinois EPA-OER for one (1) year, from August 17, 2020 to the present time.
3. The duties and responsibilities of my position include: performing duties as emergency responder of large and small-scale incidents for the Southern Region of the State; assisting in performing field investigations, inspections, sampling, recommended actions and follow-ups; analyzing and classifying incidents for appropriate notification to regional personnel and local officials; and implementing safety standards in performance of field inspections, sampling and documentation in accordance with inspection procedures and protocols.
4. In the course of my employment with the Illinois EPA, I have obtained direct and personal knowledge as to the conditions arising from a release of reformulated gasoline and

ultra-low sulfur diesel fuel (B11) from an overturned tanker truck owned by Fuel South Express, LLC, which occurred near the intersection of Illinois Route 3 and St. Thomas Road on April 6, 2022 in Granite City, Madison County, Illinois.

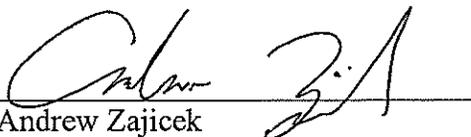
5. In the course of my employment with the Illinois EPA-OER and my investigation of the Defendant, I obtained direct and personal knowledge of the reformulated gasoline and ultra-low sulfur diesel fuel (B11) release.

6. I have read the foregoing Verified Complaint for Injunctive Relief and Civil Penalties (the "Complaint"), and am aware of the contents thereof.

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

8. Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, 735 ILCS 5/1-109, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

FURTHER AFFIANT SAYETH NOT


Andrew Zajicek
On-Scene Coordinator
Illinois Environmental Protection Agency
Office of Emergency Response

4/14/2022
Date