

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS,	)	
by KWAME RAOUL, Attorney General	)	
of the State of Illinois,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB No. _____
	)	(Enforcement – Water)
FRONTIER NORTH, INC., a Wisconsin	)	
corporation,	)	
	)	
Respondent.	)	

**NOTICE OF FILING**

TO: See attached service list

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the following Complaint, a copy of which is attached and hereby served upon you. You may be required to answer the charges of the Complaint at a hearing before the Board, at a date set by the Board.

Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the clerk's office, or an attorney.

**NOTIFICATION - YOU ARE HEREBY NOTIFIED** that financing may be available through the Illinois Environmental Facilities Financing Act [20 ILCS 3515/1, et seq.] to correct the alleged violations.

Respectfully submitted,

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

By: /s Kevin D. Bonin  
Kevin D. Bonin, #6294877  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
500 South 2<sup>nd</sup> Street  
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Date: December 30, 2020

**Service List**

**For the Respondent**

Frontier North, Inc.  
c/o Illinois Corporation Service C  
801 Adlai Stevenson Drive  
Springfield, Illinois 62703

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**COMPLAINT**

Complainant, the PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, complains of the Respondent, FRONTIER NORTH, INC., a Wisconsin corporation, as follows:

**COUNT I**  
**FAILURE TO TIMELY APPLY FOR NPDES PERMIT RENEWAL**

1. This Complaint is brought on behalf of the People of the State of Illinois, by 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 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2018).

2. Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2018), and is charged, *inter alia*, with the duty of enforcing the Act. Illinois EPA is further charged with the duty to abate violations of the National Pollutant Discharge Elimination System ("NPDES") Permit Program under the Federal Clean Water Act ("CWA"), 33 U.S.C. §1342(b)(7).

3. The Illinois Pollution Control Board ("Board") is an independent board created by the Illinois General Assembly in Section 5 of the Act, 415 ILCS 5/5 (2018), and charged, *inter alia*, with the duty of promulgating standards and regulations under the Act.

4. Respondent, FRONTIER NORTH, INC., also known as Frontier Communications ("Frontier"), is a Wisconsin corporation in good standing and authorized to do business in the State of Illinois by the Illinois Secretary of State.

5. At all times relevant to this Complaint, Respondent owned and operated a warehouse located at 9062-9038 Old State Route 13 West, Marion, Williamson County, Illinois 62959 (the "Facility").

6. NPDES Permit Number IL0059625 ("the Permit") authorizes Respondent to discharge sanitary wastewater from the Facility's authorized outfall into an unnamed tributary of Little Crab Orchard Creek ("Tributary of Little Crab Orchard Creek") in accordance with the terms and conditions of the Permit.

7. On September 10, 2013, Illinois EPA issued the Permit to Respondent with an expiration date of August 31, 2018.

8. On August 31, 2018, the Permit expired.

9. On October 18, 2019, Respondent submitted its renewal application for the Permit to Illinois EPA.

10. On April 20, 2020, Illinois EPA reissued the Permit to Respondent with an effective date of May 1, 2020.

11. Section 12 of the Act, 415 ILCS 5/12 (2018), provides, in pertinent part, 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.

\* \* \*

- (f) Cause, threaten or allow the discharge of any contaminant into the waters of the State, as defined herein . . . without an NPDES permit for point source discharges issued by the Agency under Section 39(b) of this Act, or in violation of any term or condition imposed by such permit, or in violation of any NPDES permit filing requirement established under Section 39(b), or in violation of any regulations adopted by the Board or of any order adopted by the Board with respect to the NPDES program.

\* \* \*

12. Section 3.315 of the Act, 415 ILCS 5/3.315 (2018), 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.
13. Respondent, a corporation, is a “person,” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2018).
14. Section 3.165 of the Act, 415 ILCS 5/3.165 (2018), provides as follows:
- “Contaminant” is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.
15. Sanitary wastewater from the Facility is a “contaminant,” as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2018).
16. Section 3.550 of the Act, 415 ILCS 5/3.550 (2018), 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.
17. The Tributary to Little Crab Orchard Creek is a “water” of the State, as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2018).

18. Section 3.105 of the Act, 415 ILCS 5/3.105 (2018), provides as follows:

“Agency” is the Environmental Protection Agency established by this Act.

19. Section 309.102(a) of the Board’s regulations, 35 Ill. Adm. Code 309.102(a), provides as follows:

a) Except as in compliance with the provisions of the Act, Board regulations, and the CWA, and the provisions and conditions of the NPDES permit issued to the discharger, the discharge of any contaminant or pollutant by any person into the waters of the State from a point source or into a well shall be unlawful.

20. Section 301.240 of the Board’s regulations, 35 Ill. Adm. Code 301.240, provides as follows:

“CWA” means the Federal Water Pollution Control Act, as amended, (33 U.S.C. 1251 et seq., Public Law 92-500 enacted by Congress October 18, 1972 as amended by the “Clean Water Act”, Public Law 95-217, enacted December 12, 1977, as amended.)

21. Section 502(14) of the CWA, 33 U.S.C. § 1362(14), provides as follows:

(14) The term “point source” means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include agricultural stormwater discharges and return flows from irrigated agriculture.

22. The Facility’s authorized outfall is a “point source,” as that term is defined in Section 502(14) of the CWA, 33 U.S.C. § 1362(14).

23. Section 309.104(a) of the Board’s regulations, 35 Ill. Adm. Code 309.104(a), provides, in pertinent part, as follows:

a) Any permittee who wishes to continue to discharge after the expiration date of the NPDES Permit must timely apply for reissuance of the permit.

1) A permittee has submitted a timely application for a new permit when:

A) The permittee submits:

i) an application 180 days prior to the expiration date of the existing permit; or

ii) a request for a waiver in writing to the Agency, the Agency grants a written waiver to submit the application less than 180 days prior to the expiration date of the existing permit, and the applicant submits an application within the timeframe listed in the waiver request. . . .

\* \* \*

24. Respondent submitted its renewal application for the Permit approximately 412 days after the Permit's expiration date.

25. Respondent failed to obtain a written waiver from Illinois EPA to submit a permit renewal application less than 180 days prior to the Permit's expiration date.

26. On or after September 1, 2018, at times better known to Respondent, Respondent discharged contaminants from a point source into waters of the State without obtaining an NPDES Permit in violation of Section 309.102(a) of the Board's regulations, 35 Ill. Adm. Code 309.102(a).

27. On or after September 1, 2018, at times better known to Respondent, Respondent caused, threatened, or allowed the discharge of contaminants into the environment so as to violate Section 309.102(a) of the Board's regulations, 35 Ill. Adm. Code 309.102(a), and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2018).

28. On or after September 1, 2018, at times better known to Respondent, Respondent caused, threatened, or allowed the discharge of contaminants into waters of the State in violation

of Section 309.102(a) of the Board's regulations, 35 Ill. Adm. Code 309.102(a), and thereby violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2018).

29. On or after September 1, 2018, at times better known to Respondent, Respondent caused, threatened, or allowed the discharge of contaminants into waters of the State without an NPDES permit for point source discharges issued by Illinois EPA, and thereby violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2018).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of the Complainant and against the Respondent, FRONTIER NORTH, INC., on Count I:

A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;

B. Finding that the Respondent violated Section 12(a) and (f) of the Act, 415 ILCS 5/12(a), (f) (2018), and Section 309.102(a) of the Board's regulations, 35 Ill. Adm. Code 309.102(a);

C. Ordering the Respondent to cease and desist from any further violations of Section 12(a) and (f) of the Act, 415 ILCS 5/12(a), (f) (2018), and Section 309.102(a) of the Board's regulations, 35 Ill. Adm. Code 309.102(a);

D. Assessing against the Respondent a civil penalty of \$50,000.00 for each violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2018), and Section 309.102(a) of the Board's regulations, 35 Ill. Adm. Code 309.102(a), and an additional civil penalty of \$10,000.00 for each day such violations continued, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2018);

E. Assessing against the Respondent a civil penalty of \$10,000.00 for each day of violation of Section 12(f) of the Act, 415 ILCS 5/12(f) (2018), and Section 309.102(a) of the Board's regulations, 35 Ill. Adm. Code 309.102(a), pursuant to Section 42(b)(1) of the Act, 415 ILCS 5/42(b)(1) (2018);

F. Awarding to the Complainant its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2018); and

G. Ordering such other and further relief as the Board deems appropriate 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 B. Armstrong  
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**CERTIFICATE OF SERVICE**

I hereby certify that I did on December 30, 2020, send by Certified Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box in Springfield, Illinois, true and correct copies of the documents entitled NOTICE OF FILING and COMPLAINT to:

Frontier North, Inc.  
c/o Illinois Corporation Service C  
801 Adlai Stevenson Drive  
Springfield, Illinois 62703

s/ Theresa Flinn  
Theresa Flinn  
Administrative Secretary

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 Certificate of Service 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 she verily believes the same to be true.

s/ Theresa Flinn  
Theresa Flinn  
Administrative Secretary