

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
ex rel., LISA MADIGAN, Attorney)
 General of the State of Illinois,)
)
 Complainant,)
)
 v.)
)
 ZACHARY ISAAC d/b/a NU SHINE CAR)
 WASH, and SAMUEL JOHNSON,)
)
 Respondents.)

PCB 11 -
 (Enforcement - Water)

NOTICE OF FILING
 (VIA ELECTRONIC FILING)

TO: Mr. Zachary Isaac
 1048 Horizon Ridge
 Lake in the Hills, IL 60156

Mr. Samuel Johnson
 41 Prescott
 Bridgeport, CT 06605

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board a Complaint, Notice of Filing, and a Certificate of Service on behalf of the People of the State of Illinois, a copy of which is attached and herewith served upon you.

Section 103.204(f) of the Pollution Control Board Procedural Rules, 35 Ill. Adm. Code 103.204(f) provides: **"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."**

Respectfully submitted,

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

BY: 
L. NICHOLE CUNNINGHAM

Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington St., 18th Flr.
Chicago, Illinois 60602
(312) 814-3532

DATE: March 4, 2011

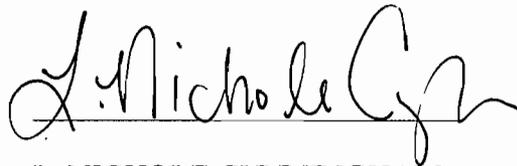
THIS FILING IS SUBMITTED ON RECYCLED PAPER

CERTIFICATE OF SERVICE

I, Lorren Nichole Cunningham, Assistant Attorney General, do certify that on the 4th day of March, 2011, I caused to be served upon Respondents, ZACHARY ISAAC d/b/a NU SHINE CAR WASH, and SAMUEL JOHNSON the foregoing Notice of Filing, Complaint, and a Certificate of Service, by U.S. Certified Mail (return receipt requested), upon the following persons:

Mr. Zachary Isaac
1048 Horizon Ridge
Lake in the Hills, IL 60156

Mr. Samuel Johnson
41 Prescott
Bridgeport, CT 06605



L. NICHOLE CUNNINGHAM
Assistant Attorney General
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PEOPLE OF THE STATE OF ILLINOIS,)	
<i>ex rel.</i> , LISA MADIGAN, Attorney)	
General of the State of Illinois,)	
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Complainant,)	
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WASH, and SAMUEL JOHNSON,)	
)	
Respondents.)	

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency, complains of the Respondents, ZACHARY ISAAC doing business as (“d/b/a”) NU SHINE CAR WASH, and SAMUEL JOHNSON, as follows:

COUNT I

WATER POLLUTION

1. This count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* LISA MADIGAN, Attorney General of the State of Illinois, at the request of the Illinois Environmental Protection Agency (“Illinois EPA”), against Respondents, ZACHARY ISAAC doing business as (“d/b/a”) NU SHINE CAR WASH, and SAMUEL JOHNSON, pursuant to Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2010).

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 (2010), and charged, *inter alia*, with the duty of enforcing the Act.

3. Respondent ZACHARY ISAAC is a resident of the State of Illinois. Until October 2009, and at all times relevant to the Complaint, Respondent ISAAC conducted business in the State of Illinois as Nu Shine Car Wash at 1065 W. Algonquin Road, Algonquin, McHenry County, Illinois ("Facility").

4. Respondent SAMUEL JOHNSON is a resident of the State of Connecticut and an owner of the Property where the Facility is operated.

5. On July 29, 2009, two Illinois EPA representatives ("Inspectors") inspected the Facility, accompanied by representatives from the McHenry County Department of Health, the McHenry County Planning and Development-Enforcement Division, and the Village of Algonquin. The Inspectors observed that a trench had been excavated and refilled from the Facility to the Village of Algonquin's sanitary sewage collection system ("Algonquin sewer system").

6. Also on July 29, 2009, the Inspectors observed a "triple basin system" that appeared to flow from the Facility's floor drains into the Facility's septic system and/or to the Algonquin sewer system. The triple basin was filled with sludge and oil deposits at the time of the inspection.

7. On July 31, 2009, one of the Illinois EPA Inspectors returned to the Facility. The Inspector observed a dye test in which dye was placed into the Facility's triple basin system and was detected a few minutes later in the Algonquin sanitary sewer manhole. The dye test confirmed a connection from the Facility's floor drains and triple basin system to the Algonquin sewer system.

8. Also on July 31, 2009, the Inspector observed that containers of oil and other contaminants were being stored in the vicinity of the triple basin system.

9. Waste water from the Facility contains both domestic and nondomestic sources. Nondomestic sources include the car washing operation and discharges from the triple basin system.

10. Respondents do not have, and have never had, a permit from the Illinois EPA for the construction of a sewer line, for connection to the Algonquin sewer system or for the discharge of sewage from a nondomestic source.

11. Section 12(a) of the Act, 415 ILCS 5/12(a) (2010), 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.

12. Section 3.315 of the Act, 415 ILCS 5/3.315 (2010), provides the following definition:

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

13. Respondents SAMUEL JOHNSON and ZACHARY ISAAC are “persons,” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2010).

14. Section 3.165 of the Act, 415 ILCS 5/3.165 (2010), provides the following definition:

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

15. Sludge, oil, dirt and detergents contained in waste water from the Respondents' nondomestic sources are "contaminants," as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2010).

16. Section 3.550 of the Act, 415 ILCS 5/3.550 (2010), contains 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.

17. The Algonquin sewer system is a "water" of the State of Illinois, as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2010).

18. Section 3.545 of the Act, 415 ILCS 5/3.545 (2010), 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.

19. Respondents made unpermitted discharges of untested nondomestic contaminants into the Algonquin sewer system, a water of the State of Illinois. The discharge of these contaminants is likely to create a nuisance or render water harmful to human or animal life or health.

20. By constructing their own sewer line and discharging untested nondomestic waste water into the Algonquin sewer system, Respondents caused, threatened or allowed the discharge of contaminants into the environment so as to cause or tend to cause water pollution in Illinois.

21. By causing or tending to cause water pollution in Illinois, Respondents violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Illinois Pollution Control Board ("Board") enter an order in favor of Complainant and against Respondents, ZACHARY ISAAC, d/b/a NU SHINE CAR WASH, and SAMUEL JOHNSON, and for the following relief:

1. Authorizing a hearing in this matter at which time Respondents will be required to answer the allegations herein;
2. Finding that Respondents violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2010);
3. Ordering Respondents to cease and desist from any further violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2010);
4. Assessing civil penalties pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010), of Fifty Thousand Dollars (\$50,000.00) against Respondents for each violation and Ten Thousand Dollars (\$10,000.00) for each day of violation;
5. Ordering the Respondents to pay all costs of this action, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and
6. Granting such other relief as this Board deems appropriate and just.

COUNT II

CONSTRUCTION OF SEWER LINE WITHOUT A PERMIT

1-19. Complainant realleges and incorporates by reference herein paragraphs 1 through 19 of Count I as paragraphs 1 through 19 of this Count II.

20. Section 12(b) of the Act, 415 ILCS 5/12(b) (2010), provides that:

No person shall:

(b) Construct, install or operate any equipment, facility or vessel, or aircraft capable of causing or contributing to water pollution, or designed to prevent water pollution, of any type designated by Board regulations, without a permit granted by the Agency, or in violation of any conditions imposed by such permit.

21. Section 309.202(a) of the Board's Water Pollution Regulations, 35 Ill.

Adm. Code 309.202(a), provides as follows:

No person shall cause or allow the construction of any new treatment works, sewer or wastewater source or cause or allow the modification of any existing treatment works, sewer or wastewater source without a construction permit issued by the Agency, except as provided in paragraph (b).

22. Section 301.390(a) of the Board's Water Pollution Regulations, 35 Ill.

Adm. Code 301.390 (a), provides the following definition:

"Sewer" means a stationary means of transport or stationary system of transport, excluding natural waterways, constructed and operated for the purpose of collecting and transporting wastewater or land runoff, or both.

23. The connection created by Respondents to carry waste water from the Facility into the Algonquin sanitary sewer system is a "sewer," as that term is defined in Section 301.390(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 301.390 (a).

24. The Respondents' sewer line is capable of causing or contributing to water pollution.

25. By constructing a sewer line connection leading from the Facility to the Algonquin sewer system, Respondents constructed equipment capable of causing or contributing to water pollution in violation of Section 12(b) of the Act, 415 ILCS 5/12(b)

(2010), and Section 309.202(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 309.202(a) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondents, ZACHARY ISAAC, d/b/a NU SHINE CAR WASH, and SAMUEL JOHNSON, for the following relief:

1. Authorizing a hearing in this matter at which time Respondents will be required to answer the allegations herein;
2. Finding that Respondents violated Section 12(b) of the Act, 415 ILCS 5/12(b) (2010), and Section 309.202(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 309.202(a) (2010);
3. Ordering Respondents to cease and desist from any further violation of Section 12(b) of the Act, 415 ILCS 5/12(b) (2010), and Section 309.202(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 309.202(a) (2010);
4. Assessing civil penalties pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010), of Fifty Thousand Dollars (\$50,000.00) against Respondents for each violation and Ten Thousand Dollars (\$10,000.00) for each day of violation;
5. Ordering Respondents to pay all costs of this action, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and
6. Granting such other relief as this Board deems appropriate and just.

COUNT III

INTRODUCTION OF NONDOMESTIC CONTAMINANTS IN ALGONQUIN SEWER SYSTEM

1-25. Plaintiff realleges and incorporates by reference herein paragraphs 1

through 25 of Count II as paragraphs 1 through 25 of this Count III.

26. Section 12(h) of the Act, 415 ILCS 5/12(h) (2010), provides as follows:

No person shall:

(h) Introduce contaminants into a sewage works from any nondomestic source except in compliance with the regulations and standards adopted by the Board under this Act.

27. Respondents introduced contaminants from nondomestic sources into a sewer line that was constructed without complying with the Act and Board Regulations and so as to cause water pollution in violation of the Act.

28. By introducing contaminants from nondomestic sources into the Algonquin sewer system without complying with the Act and Board Regulations, Respondents violated Section 12(h) of the Act, 415 ILCS 5/12(h) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondents, ZACHARY ISAAC, d/b/a NU SHINE CAR WASH, and SAMUEL JOHNSON, for the following relief:

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

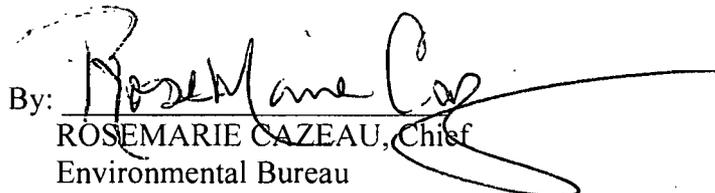
2. Finding that Respondents violated Section 12(h) of the Act, 415 ILCS 5/12(h) (2010);

3. Ordering Respondents to cease and desist from any further violation of Section 12(h) of the Act, 415 ILCS 5/12(h) (2010);

4. Assessing civil penalties pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010), of Fifty Thousand Dollars (\$50,000.00) against Respondents for each violation and Ten Thousand Dollars (\$10,000.00) for each day of violation;
5. Ordering Respondents to pay all costs of this action, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and
6. Granting such other relief as this Board deems appropriate and just.

PEOPLE OF THE STATE OF ILLINOIS,
by LISA MADIGAN, Attorney
General of the State of Illinois

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

By: 
ROSEMARIE CAZEAU, Chief
Environmental Bureau
Assistant Attorney General

Of Counsel:

L. Nichole Cunningham
Assistant Attorney General
Environmental Bureau
69 W. Washington St., #1800
Chicago, Illinois 60602
312.814.3532