

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.)
)
 PEORIA BARGE TERMINAL, INC., a)
 Delaware corporation, and MORTON SALT,)
 INC., a Delaware corporation,)
)
 Respondents.)

PCB NO.
(Enforcement-Water)

NOTICE OF FILING

To: See Attached Service List

PLEASE TAKE NOTICE that on July 6, 2018, I electronically filed with the Clerk of the Pollution Control Board of the State of Illinois, Notice of Filing and Complaint, copies of which are attached hereto and herewith served upon you. Failure to file an answer to this Complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in this 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.

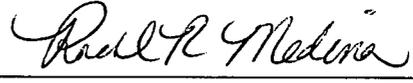
FURTHER, please take notice that financing may be available, through the Illinois Environmental Facilities Financing Act, 20 ILCS 3515/1, to correct the pollution alleged in the Complaint filed in this case.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN,
Attorney General of the
State of Illinois

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

BY: 

 RACHEL R. MEDINA
 Assistant Attorney General

CERTIFICATE OF SERVICE

I hereby certify that I did on July 6, 2018, cause to be served by Certified Mail, Return Receipt Requested, with postage thereon fully prepaid, by depositing in a United States Post Office Box in Springfield, Illinois, a true and correct copy of the following instruments entitled NOTICE OF FILING and COMPLAINT upon the persons listed on the Service List.



Rachel R. Medina
Assistant Attorney General
500 South Second Street
Springfield, IL 62701
217/782-9031
rmedina@atg.state.il.us
ebs@atg.state.il.us

SERVICE LIST:

Peoria Barge Terminal, Inc.
c/o James F. Kane
7800 N. Sommer Street, Suite 425
Peoria, IL 61615

Morton Salt, Inc.
c/o Cogency Global, Inc.
600 South Second Street
Suite 404
Springfield, IL 62704

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
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v.)	PCB NO.
)	(Enforcement – Water)
PEORIA BARGE TERMINAL, INC.,)	
a Delaware corporation, and)	
MORTON SALT, INC.,)	
a Delaware corporation,)	
)	
Respondents.)	

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondents, PEORIA BARGE TERMINAL, INC. and MORTON SALT, INC., as follows:

COUNT I
SURFACE WATER POLLUTION FROM ROAD SALT
PEORIA BARGE TERMINAL & MORTON SALT

1. This Count is brought by the Attorney General on her 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 (2016), against Respondents PEORIA BARGE TERMINAL, INC. and MORTON SALT, INC.

2. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2016), and charged, *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board.

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 (2016), and charged, *inter alia*, with the duty of promulgating standards and regulations under the Act.

4. This Count is brought after providing Respondents, Peoria Barge Terminal, Inc. and Morton Salt, Inc., with notice and the opportunity for a meeting with the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2016).

5. Peoria Barge Terminal, Inc. (“PBT”) is and was, at all times relevant to this Complaint, a Delaware corporation in good standing and authorized to do business in the State of Illinois.

6. PBT owns and operates a multi-modal freight transfer and storage terminal that receives, handles, and stockpiles several bulk commodities, including but not limited to coal and road deicing salt. At times relevant to the Complaint, PBT removed the coal and road salt from barges and placed the material in large, outdoor stockpiles at its facility located on the west bank of the Illinois River, between Darst and Sanger Streets, at 1925 Darst Street in Peoria, Illinois (“the site”). The legal description of the site is the SW 1/4, Section 17, T8N, R8E (Peoria Township), in Peoria County.

7. Morton Salt, Inc. (“Morton”) is and was, at all times relevant to this Complaint, a Delaware corporation in good standing and authorized to do business in the State of Illinois.

8. Morton is one of the largest salt producers in North America with consumer products including table and specialty salts, water softening products and ice melters. Morton supplies salt to a wide range of industries, such as food and pharmaceuticals, for a wide range of uses, including ice control.

9. Pursuant to its contract with PBT, Morton owns the road deicing salt stored at PBT's storage site and retains ownership until the salt is sold to third parties and moved off-site for delivery. Morton retains responsibility for providing coverage of its salt stored at the site.

10. Chloride is the major component of salt. High chloride levels can slow plant growth, impair reproduction and reduce the diversity of organisms in affected waters.

11. Morton road deicing salt contains ferric ferrocyanide, an iron cyanide compound commonly referred to as "Prussian blue," which serves as an anti-caking additive to prevent salt crystals from clumping together and inhibiting roadway application.

12. When exposed to water and sunlight, ferric ferrocyanide photodecomposes into its constituent parts of iron and the toxic anion of cyanide known as "free cyanide." Free cyanide can be extremely dangerous to aquatic organisms when the concentrated runoff from road salt piles enters waterways.

13. The United States EPA has determined that ferric ferrocyanide is one of the "cyanides" listed as toxic pollutants under Section 307(a) of the Clean Water Act and codified at 40 C.F.R. §§ 401.15, 302.4, and Table 302.4.

14. At the time of Illinois EPA inspections conducted in 2011 and 2012, the site consisted of approximately 100 acres along the west bank of the Illinois River, with the Morton salt stockpile located within 500 feet from the Illinois River. Storm water from the salt stockpile flowed through an unlined drainage channel into an unlined collection pond. The runoff overflow from the collection pond then discharged towards the Illinois River.

15. The General Assembly has found "pollution of waters of this State constitutes a menace to public health and welfare, creates public nuisances, is harmful to wildlife, fish, and aquatic life, impairs domestic, agricultural, industrial, recreational, and other legitimate

beneficial uses of water, depresses property values, and offends the senses.” 415 ILCS 5/11(a) (2016).

16. Section 12 of the Act, 415 ILCS 5/12 (2016), 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.

17. Section 3.545 of the Act, 415 ILCS 5/3.545 (2016), defines “water pollution” as follows:

[S]uch 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.

18. In order to protect surface waters of the State, Section 302.208 of the Board’s Water Pollution Regulations sets Numeric Water Quality Standards for chloride, dissolved iron and free cyanide. 35 Ill. Adm. Code 302.208.

19. The Numeric Water Quality Standard for chloride is 500 milligrams per liter (“mg/L”). 35 Ill. Adm. Code 302.208(g).

20. The Numeric Water Quality Standard for dissolved iron is 1 mg/L. 35 Ill. Adm. Code 302.208(g).

21. The Numeric Water Quality Standard for free cyanide is 22 micrograms per liter (“µg/L”). 35 Ill. Adm. Code 302.208(e).

22. On September 19, 2011, the Illinois EPA inspected the site. On that date, approximately 35,000 tons of Morton salt was being stored in one large, outdoor stockpile on a largely cracked and broken asphalt pad. The stockpile was covered with a black tarp; however, the tarp was ripped on the north face near the northwest corner and was not sealed to the pad with ballast around the perimeter to prevent washout of Morton salt from the toe of the stockpile.

23. On September 19, 2011, the drainage pattern left by storm water coming into contact with the stockpile indicated that surface runoff from the pile discharged into the unlined drainage channel along the south side of the pile. The discharge flowed through the channel in a southeasterly direction and discharged into a nearby unlined collection pond.

24. On September 26, 2011, the Illinois EPA inspected the site. On that date, the same rip in the tarp was present and conditions were largely unchanged from the September 19, 2011 inspection. A distinct drainage path of white salt material was leading away from the Morton salt stockpile from where the tarp was ripped and salt was exposed.

25. On December 15, 2011, the Illinois EPA inspected the site. On that date, the same rip in the tarp was present and conditions were largely unchanged from the September 19, 2011 inspection. Salt runoff from the west side of the Morton salt stockpile had resulted in salt solids forming in the unlined drainage channel.

26. On March 9, 2012, the Illinois EPA inspected the site. On that date, the tarp had been removed from approximately half of the stockpile in order to add another barge of Morton salt to the existing pile. The perimeter of the tarp that remained was not sealed at the base of the stockpile to prevent washout from the toe of the stockpile.

27. On March 9, 2012, the weather was dry; however, leachate was still being released from the Morton salt stockpile at a low trickle flow. The leachate was draining along a significant crack in the asphalt pad at the south of the pile and entering the unlined drainage channel that leads to the collection pond. The released leachate was forming salt solids in the channel.

28. On March 9, 2012, the Illinois EPA collected one surface water sample of the runoff draining to the southeast of the Morton salt stockpile. The sample had a light green coloration. Analytical results indicated contaminant concentrations as follows:

Contaminant	Southeast stockpile runoff
Chloride (mg/l)	181,000
Total Iron (mg/l)	324
Total Cyanide (µg/l)	170,000

29. On March 28, 2012, the Illinois EPA inspected the site. On that date, the tarp was still removed from more than half of the Morton salt stockpile. The perimeter of the tarp that remained was not sealed at the base of the stockpile to prevent washout from the toe of the stockpile.

30. On March 28, 2012, the weather was dry; however, leachate was still being released from the Morton salt stockpile. The leachate was draining to the southwest of the pile and entering the unlined drainage channel that diverts runoff farther south to the unlined collection pond.

31. On April 11, 2012, the Illinois EPA inspected the site. On that date, some of the west side of the Morton salt stockpile was covered with a tarp, but the majority remained

uncovered. The perimeter of the tarp that remained was not sealed at the base of the stockpile to prevent washout from the toe of the stockpile.

32. On October 18, 2012, the Illinois EPA inspected the site. On that date, site conditions were wet as a result of at least one inch of rainfall the prior night. The stockpile contained approximately 48,000 tons of Morton road salt. A black synthetic tarp covered the Morton salt stockpile, and asphalt millings were placed along a portion of the perimeter at the base of the pile as ballast.

33. On October 18, 2012, the Morton salt stockpile was submerged in approximately eight inches of storm water that had accumulated at its base. Evidence of salt washing out from the stockpile was present.

34. On October 18, 2012, an eroded overflow channel was present on the southeast side of the collection pond due to discharges of storm water from the pond.

35. On October 18, 2012, Illinois EPA collected surface water samples from the south side of the Morton Salt stockpile and the collection pond. Analytical results indicated contaminant concentrations as follows:

Contaminant	South side of Stockpile	Collection pond
Chloride (mg/l) (IEPA lab)	18800	445
Total Iron (mg/l) (IEPA lab)	0.272	4.49
Total Cyanide (µg/l) (IEPA lab)	210	-
Total Cyanide (µg/l) (USEPA lab)	287	6
Free Cyanide (µg/l) (USEPA lab)	123	-

36. The collection pond and Illinois River are “waters” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2016), 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.

37. The Morton salt stockpiled at the site is a “contaminant” as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2016), as follows:

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

38. Respondents, PBT and Morton, caused, threatened, or allowed the discharge of contaminants - salt and salt-laden water - from the storage site into waters of the State causing, or tending to cause, water pollution.

39. By causing, threatening, or allowing the discharge of salt and salt-laden water from the storage site, causing or tending to cause water pollution, Respondents, PBT and Morton Salt, have violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2016).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, PEORIA BARGE TERMINAL, INC. and MORTON SALT, INC., as follows:

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

B. Finding that Respondents violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2016);

C. Ordering Respondents to cease and desist from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2016);

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2016), assessing against each Respondent a civil penalty of up to fifty thousand dollars (\$50,000) for each violation of the Act and its regulations and up to an additional ten thousand dollars (\$10,000) for each day that each violation continued; and

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2016), awarding to Complainant its costs and reasonable attorney's fees; and

F. Granting such other relief as the Board may deem appropriate.

COUNT II
SURFACE WATER POLLUTION HAZARD
PEORIA BARGE TERMINAL & MORTON SALT

1-37. Complainant realleges and incorporates by reference herein paragraphs 1 through 37 of Count I as paragraphs 1 through 37 of this Count II.

38. Section 12 of the Act, 415 ILCS 5/12 (2016), provides, in pertinent part, 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.

39. Respondents, PBT and Morton, deposited contaminants upon the land in such a manner so as to create a water pollution hazard.

40. By depositing contaminants upon the land in such a manner so as to create a water pollution hazard Respondents, PBT and Morton, have violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2016).

PRAYER FOR RELIEF

Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, PEORIA BARGE TERMINAL, INC. and MORTON SALT, INC., as follows:

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

B. Finding that Respondents violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2016);

C. Ordering Respondents to cease and desist from any further violations of Section 12(d) of the Act, 415 ILCS 5/12(d) (2016);

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2016), assessing against each Respondent a civil penalty of up to fifty thousand dollars (\$50,000) for each violation of the Act and its regulations and up to an additional ten thousand dollars (\$10,000) for each day that each violation continued; and

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2016), awarding to Complainant its costs and reasonable attorney's fees; and

F. Granting such other relief as the Board may deem appropriate.

COUNT III
OFFENSIVE DISCHARGES FROM ROAD SALT
PEORIA BARGE TERMINAL & MORTON SALT

1-37. Complainant realleges and incorporates by reference herein paragraphs 1 through 37 of Count I as paragraphs 1 through 37 of this Count III.

38. Section 304.106 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.106, prohibits offensive discharges, as follows:

[N]o effluent shall contain settleable solids, floating debris, visible oil, grease, scum, or sludge solids. Color, odor and turbidity must be reduced to below obvious levels.

39. Respondents, PBT and Morton, discharged green-colored storm water containing settleable solids, such as salt, causing offensive discharges.

40. By discharging green-colored storm water containing settleable solids, such as salt, causing offensive discharges, Respondents, PBT and Morton, have violated Section 304.106 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.106, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2016).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, PEORIA BARGE TERMINAL, INC. and MORTON SALT, INC., as follows:

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

B. Finding that Respondents violated Section 304.106 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.106, and therefore Section 12(a) of the Act, 415 ILCS 5/12(a) (2016);

C. Ordering Respondents to cease and desist from any further violations of Section 304.106 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.106, and Section 12(a) of the Act, 415 ILCS 5/12(a) (2016);

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2016), assessing against each Respondent a civil penalty of up to fifty thousand dollars (\$50,000) for each violation of the

Act and its regulations and up to an additional ten thousand dollars (\$10,000) for each day that each violation continued;

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2016), awarding to Complainant its costs and reasonable attorney's fees; and

F. Granting such other relief as the Board may deem appropriate.

COUNT IV
SURFACE WATER POLLUTION FROM COAL
PEORIA BARGE TERMINAL

1. This Count is brought on behalf of the People of the State of Illinois, by LISA MADIGAN, the Attorney General of the State of Illinois, on her own motion pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2016), against Respondent PEORIA BARGE TERMINAL, INC.

2-10. Complainant realleges and incorporates by reference herein paragraphs 2 through 6, and paragraphs 14 through 17, of Count I as paragraphs 2 through 10 of this Count IV

11. Coal stockpiles contain both organic and inorganic constituents, including iron and manganese.

12. On September 19, 2011, the Illinois EPA inspected the site. On that date, the ground near the salt stockpile was covered in loose coal material.

13. On September 26, 2011, the Illinois EPA inspected the site. On that date, the water level of the collection pond was low. The exposed bottom of the collection pond was entirely black with deposited coal material.

14. On December 15, 2011, the Illinois EPA inspected the site. On that date, a large uncovered stockpile of coal was present on the southwest end of the storage area and near the

collection pond. The ground near the salt stockpile was covered in loose coal material and a pool of liquid with petroleum sheen was present.

15. On March 9, 2012, the Illinois EPA inspected the site. On that date, solids accumulating in the channel and draining to the collection pond at the southeast of the site also contained visible coal runoff.

16. On March 9, 2012, the Illinois EPA collected one surface water sample of the runoff draining to the southeast of the stockpile. Analytical results indicated contaminant concentrations as follows:

Contaminant	Southeast stockpile runoff
Total Iron (mg/l)	324
Total Manganese (µg/l)	7130

17. On October 18, 2012, the Illinois EPA inspected the site. On that date, coal material was being stored in large uncovered stockpiles on both the north and south sides of the salt stockpile. A makeshift earthen berm consisting of dirt, bricks, coal and other materials formed the south boundary of the unlined collection pond.

18. On October 18, 2012, Illinois EPA collected surface water samples of the runoff from the south side of the coal stockpile and the unlined collection pond. Analytical results indicated contaminant concentrations as follows:

Contaminant	South side of Stockpile	Collection pond
Total Iron (mg/l) (IEPA lab)	0.272	4.49
Total Manganese (µg/l) (IEPA lab)	595	-

19. The collection pond and Illinois River are “waters” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2016), 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.

20. The coal stockpiled at the site is a “contaminant” as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2016), as follows:

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

21. Respondent PBT caused, threatened, or allowed the discharge of contaminants - coal and coal-laden water - into waters of the State so as to cause or tend to cause water pollution.

22. By causing, threatening, or allowing the discharge coal and coal-laden water from the storage site, so cause or tend to cause water pollution, Respondent PBT has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2016).

PRAYER FOR RELIEF

Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent PEORIA BARGE TERMINAL, INC. as follows:

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

B. Finding that Respondent PBT violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2016);

C. Ordering Respondent PBT to cease and desist from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2016);

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2016), assessing against Respondent PBT a civil penalty of up to fifty thousand dollars (\$50,000) for each violation of the

Act and its regulations and up to an additional ten thousand dollars (\$10,000) for each day that each violation continued;

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2016), awarding to Complainant its costs and reasonable attorney's fees; and

F. Granting such other relief as the Board may deem appropriate.

COUNT V
SURFACE WATER POLLUTION HAZARD FROM COAL
PEORIA BARGE TERMINAL

1-20. Complainant realleges and incorporates by reference herein paragraphs 1 through 20 of Count IV as paragraphs 1 through 20 of this Count V.

21. Section 12 of the Act, 415 ILCS 5/12 (2016), provides, in pertinent part, 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.

22. Respondent PBT deposited contaminants upon the land in such a manner so as to create a water pollution hazard.

23. By depositing contaminants upon the land in such a manner so as to create a water pollution hazard, Respondent PBT has violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2016).

PRAYER FOR RELIEF

Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent PEORIA BARGE TERMINAL, INC. as follows:

- A. Authorizing a hearing in this matter at which time Respondent PBT will be required to answer the allegations herein;
- B. Finding that Respondent PBT violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2016);
- C. Ordering Respondent PBT to cease and desist from any further violations of Section 12(d) of the Act, 415 ILCS 5/12(d) (2016);
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2016), assessing against Respondent PBT a civil penalty of up to fifty thousand dollars (\$50,000) for each violation of the Act and its regulations and up to an additional ten thousand dollars (\$10,000) for each day that each violation continued;
- E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2016), awarding to Complainant its costs and reasonable attorney's fees; and
- F. Granting such other relief as the Board may deem appropriate.

COUNT VI
OFFENSIVE CONDITIONS FROM COAL
PEORIA BARGE TERMINAL

1-20. Complainant realleges and incorporates by reference herein paragraphs 1 through 20 of Count IV as paragraphs 1 through 20 of this Count VI.

21. Section 302.203 of the Illinois Pollution Control Board's ("Board") Water Pollution Regulations, 35 Ill. Adm. Code 302.203, prohibits offensive conditions in waters of the State, as follows:

Waters of the State shall be free from sludge or bottom deposits, floating debris, visible oil, odor, plant or algal, color or turbidity of other than natural origin. . . .

22. Respondent PBT caused offensive conditions by discharging coal and coal-laden storm water from the coal storage pile into the unlined collection pond creating coal bottom deposits and surface water with petroleum sheen.

23. By causing offensive conditions from the discharge of coal and coal-laden storm water from the coal storage site and creating coal bottom deposits and surface water with petroleum sheen, Respondent has violated Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203, and therefore violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2016).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent PEORIA BARGE TERMINAL, INC. as follows:

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

B. Finding that Respondent PBT violated Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203, and therefore Section 12(a) of the Act, 415 ILCS 5/12(a) (2016);

C. Ordering Respondent PBT to cease and desist from any further violations of Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203, and Section 12(a) of the Act, 415 ILCS 5/12(a) (2016);

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2016), assessing against Respondent PBT a civil penalty of up to fifty thousand dollars (\$50,000) for each violation of the

Act and its regulations and up to an additional ten thousand dollars (\$10,000) for each day that each violation continued;

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2016), awarding to Complainant its costs and reasonable attorney's fees; and

F. Granting such other relief as the Board may deem appropriate.

COUNT VII
OFFENSIVE DISCHARGES FROM COAL
PEORIA BARGE TERMINAL

1-23. Complainant realleges and incorporates by reference herein paragraphs 1 through 23 of Count IV as paragraphs 1 through 23 of this Count VII.

24. Section 304.106 of the Illinois Pollution Control Board's ("Board") Water Pollution Regulations, 35 Ill. Adm. Code 304.106, prohibits offensive discharges in waters of the State, as follows:

[N]o effluent shall contain settleable solids, floating debris, visible oil, grease, scum, or sludge solids. Color, odor and turbidity must be reduced to below obvious levels.

25. Respondent PBT discharged storm water containing settleable solids, such as coal, causing offensive discharges.

26. By discharging storm water containing settleable solids, such as coal, causing offensive discharges, Respondent PBT has violated Section 304.106 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.106, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2016).

PRAYER FOR RELIEF

Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent PEORIA BARGE TERMINAL, INC. as follows:

- A. Authorizing a hearing in this matter at which time Respondent PBT will be required to answer the allegations herein;
- B. Finding that Respondent PBT violated Section 304.106 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.106, and therefore Section 12(a) of the Act, 415 ILCS 5/12(a) (2016);
- C. Ordering Respondent PBT to cease and desist from any further violations of Section 304.106 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.106, and Section 12(a) of the Act, 415 ILCS 5/12(a) (2016);
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2016), assessing against Respondent PBT a civil penalty of up to fifty thousand dollars (\$50,000) for each violation of the Act and its regulations and up to an additional ten thousand dollars (\$10,000) for each day that each violation continued;
- E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2016), awarding to Complainant its costs and reasonable attorney's fees; and
- F. Granting such other relief as the Board may deem appropriate.

COUNT VIII
THREAT TO RESOURCE GROUNDWATER
PEORIA BARGE TERMINAL & MORTON SALT

1-39. Complainant realleges and incorporates herein by reference paragraphs 1-15 and 22-37 of Count I and paragraphs 11 through 18 of Count IV as paragraphs 1 through 39 of this Count VIII.

40. The site overlies the Sankoty Aquifer, a large groundwater supply for the Peoria/Central Illinois area in beneficial use since the late 1800's continuing to the present.

41. The Sankoty Aquifer is principally a sand and gravel aquifer system capable of yielding 100,000 gallons of water per day per square foot ("gpd/ft²"), or $1 \times 10^{-1.98}$ centimeters per second ("cm/sec"), over at least a fifty (50) square mile area.

42. Section 671.102 of the Illinois EPA's Public Water Supplies Rules, 35 Ill. Adm. Code 671.102, defines "unconfined aquifer" as "an aquifer other than a confined aquifer."

43. Section 671.102 of the Illinois EPA's Public Water Supplies Rules, 35 Ill. Adm. Code 671.102, defines "confined aquifer" as "an aquifer bounded above and below by impermeable beds or by shale, clay, or siltstone."

44. The principal sand and gravel aquifer underlying the site is an unconfined aquifer. The material overlying an unconfined aquifer has a very high potential for aquifer recharge, and therefore has a high potential for groundwater contamination.

45. The unconfined principal sand and gravel aquifer underlying the site contains "resource groundwater," as that term is defined in Section 3.430 of the Act, 415 ILCS 5/3.430 (2016), as follows:

"Resource groundwater" means groundwater that is presently being or in the future capable of being put to beneficial use by reason of being of suitable quality.

46. Section 620.301(a) of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 620.301(a), provides as follows:

- (a) No person shall cause, threaten or allow the release of any contaminant to a resource groundwater such that:
 - (1) Treatment or additional treatment is necessary to . . . assure potential use of such groundwater. . . .

47. As an unconfined unconsolidated principal sand and gravel aquifer that is more than five (5) feet in thickness and located more than ten (10) feet below the surface, the resource groundwater beneath the site is "Class I: Potable Resource Groundwater" pursuant to Section 620.210(a) of the Board's Water Supplies Regulations, 35 Ill. Adm. Code 620.210(a), as follows:

a) Groundwater located 10 feet or more below the land surface and within:

* * * *

2) Unconsolidated sand, gravel or sand and gravel which is 5 feet or more in thickness and that contains 12 percent or less of fines (i.e. fines which pass through a No. 200 sieve tested according to ASTM Standard Practice D2488-84, incorporated by reference at Section 620.125); or

* * * *

4) Any geologic material which is capable of a:

* * * *

B) Hydraulic conductivity of 1×10^{-4} cm/sec or greater. . . .

48. The coal and Morton salt stockpiled at the site are "contaminants" as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2016), as follows:

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

49. Respondents, PBT and Morton Salt, caused, threatened, or allowed contaminated storm water to discharge onto the ground and into the unlined drainage channel and the unlined collection pond, which caused threatened, or allowed the contaminated storm water to leach through the soil and release contaminants into the groundwater supply.

50. By causing, threatening, or allowing contaminated storm water to discharge onto the ground and into the unlined drainage channel, the unlined collection pond, and ultimately causing, threatening, or allowing the contaminated storm water to leach into the soil and release

contaminants into the groundwater supply, Respondents, PBT and Morton Salt, have violated Section 620.301(a) of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 620.301(a), and thereby violated Section 12(a) of the Act, 415 ILC 5/12(a) (2016).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, PEORIA BARGE TERMINAL, INC. and MORTON SALT, INC., as follows:

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

B. Finding that Respondents violated Section 620.301(a) of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 620.301(a), and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2016);

C. Ordering Respondent to cease and desist from any further violations of Section 620.301(a) of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 620.301(a), and Section 12(a) of the Act, 415 ILCS 5/12(a) (2016);

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2016), assessing against each Respondent a civil penalty of up to fifty thousand dollars (\$50,000) for each violation of the Act and its regulations and up to an additional ten thousand dollars (\$10,000) for each day that each violation continued; and

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2016), awarding to Complainant its costs and reasonable attorney's fees; and

F. Granting such other relief as the Board may deem appropriate.

F. Granting such other relief as the Board may deem appropriate.

Respectfully submitted,

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: 
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Dated: