

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
 LISA MADIGAN, Attorney General of)
 the State of Illinois,)
)
 Complainant,)
)
 v.)
)
 THOMAS P. MATHEWS, an individual,)
)
 Respondent.)

No. 07-
(Enforcement-Water)

NOTICE OF FILING

TO: See attached service list (VIA ELECTRONIC FILING)

PLEASE TAKE NOTICE that today I have electronically filed with the Office of the Clerk of the Pollution Control Board the following Complaint, a copy of which is attached and hereby served on you.

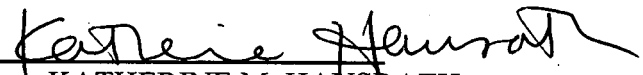
Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer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

Respectfully submitted,

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

By: 
 KATHERINE M. HAUSRATH
 Assistant Attorney General
 Environmental Bureau
 69 W. Washington St., 18th Floor
 Chicago, Illinois 60602
 (312) 814-0660

SERVICE LIST

James A. Campion
Campion, Curran, Dunlop & Lamb, P.C.
8600 U.S. Highway 14, Suite 201
Crystal Lake, IL 60012

Thomas P. Mathews
7314 Hancock Drive, P.O. Box 189
Wonder Lake, Illinois 60097

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
LISA MADIGAN, Attorney General of)	
the State of Illinois,)	
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Complainant,)	
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v.)	No.
)	(Enforcement-Water)
THOMAS P. MATHEWS, an individual,)	
)	
Respondent.)	

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, THOMAS P. MATHEWS, as follows:

COUNT I

WATER POLLUTION

1. This count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, 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 (2004).

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 (2004), and is charged *inter alia*, with the duty of enforcing the Act.

3. At all times relevant to this Complaint, Respondent THOMAS P. MATHEWS

("Mathews") was and is an Illinois resident.

4. At all times relevant to this Complaint, Respondent Mathews owned a parcel of land located at the intersection of Westmoor Drive and East Oakwood Drive in Wonder Lake, McHenry County, Illinois ("Site"). The Site borders a small unnamed stream that leads to Wonder Lake.

5. On April 22, 2005, the Illinois EPA and the McHenry County Soil and Water Conservation District ("SWCD") inspected the Site.

6. At this time, large piles of soil and stone ("Fill Material"), were located on the Site near the small stream that leads to Wonder Lake. The piles were located near the stream in such a manner that silt-laden storm water could run off of the piles and into the stream.

7. On April 27, 2005, the Illinois EPA again inspected the Site.

8. At this time, large piles of Fill Material were located on the Site near the small stream that leads to Wonder Lake. The piles were located near the stream such that silt-laden storm water could run off of the piles and into the stream. Additionally, at least one pile of Fill Material was falling into the small stream that leads to Wonder Lake.

9. Respondent Mathews was present during the Illinois EPA's April 27, 2005 inspection of the Site, and advised the Illinois EPA inspector that he, Respondent Mathews, would grade the Site and install some silt fencing to contain the Fill Material at the Site.

10. On May 5, 2005, the Illinois EPA again inspected the Site.

11. At this time, more piles of Fill Material were present at the Site than had been present during the April 2005 inspections. The piles were located near the stream such that storm water could run off of the piles and into the stream. The Site had not been graded, and no

erosion controls were present at the Site.

12. On July 28, 2005, the Illinois EPA again inspected the Site.

13. At this time, the Site had been graded. Fill Material had been deposited on the Site in the drainage area for the unnamed stream. The drainage area of the unnamed stream includes a wetland. Additional piles of Fill Material were located near the stream that leads to Wonder Lake.

14. On August 5, 2005, the Illinois EPA and the SWCD inspected the Site.

15. At this time, Fill Material was still present in the drainage area of the unnamed stream. Additional piles of Fill Material were located near the stream that leads to Wonder Lake.

16. On August 30, 2006, the Illinois EPA and the SWCD inspected the Site.

17. At this time, some silt fencing had been installed on the Site. The silt fencing was either missing or improperly maintained along the western edge of the Site. Fill Material on the Site was spilling over the silt fencing, near a storm ditch that leads to Wonder Lake. Additional Fill Material had been deposited on the storm ditch side of the silt fencing.

18. On May 11, 2007, the Illinois EPA inspected the Site.

19. At this time, the Site had been graded and had significant weed cover. The entrance to the Site was unstabilized.

20. Section 12(a) of the Act, 415 ILCS 5/12(a)(2004), provides as follows:

No person shall:

- (a) Cause or threaten or allow the discharge of any contaminant 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.

21. Section 3.315 of the Act, 415 ILCS 5/3.315 (2004), provides, as follows:

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

22. Respondent Mathews, an individual, is a “person” as that term is defined in the Act.

23. Section 3.165 of the Act, 415 ILCS 5/3.165 (2004), provides the following definition:

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

24. The exposed piles of Fill Material and silt-laden storm water present at the Site are “contaminants” as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2004).

25. Section 3.550 of the Act, 415 ILCS 5/3.550 (2004), 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.

26. The unnamed stream that leads to Wonder Lake 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 (2004).

27. Section 3.545 of the Act, 415 ILCS 5/3.545 (2004), 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.

28. From at least April 22, 2005 through May 11, 2007, or on dates better known to Respondent Mathews, the Respondent deposited large piles of Fill Material onto the Site in a manner that allowed Fill Material and silt-laden storm water to flow into the stream that leads to Wonder Lake. Such contaminants altered, or threatened to alter, the physical, chemical, thermal, or biological properties of the stream at the Site, and created, or were likely to create, a nuisance.

29. Respondent, Mathews, by his actions and omissions as alleged herein, caused, threatened, or allowed contaminants consisting of Fill Material and silt-laden storm water to enter the waters of the State, the stream that runs into Wonder Lake, thereby causing water pollution.

30. By causing or tending to cause water pollution, Respondent Mathews violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2004).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, THOMAS P. MATHEWS, for the following relief:

1. Authorize a hearing in this matter at which time Respondent will be required to answer the allegations herein;
2. Find that Respondent has violated Section 12(a) of the Act;
3. Order Respondent to cease and desist from any violations of Section 12(a) of the Act, including, but not limited to, stabilizing the entrance to the Site;

4. Assess against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and Ten Thousand Dollars (\$10,000.00) for each day of violation;
5. Order Respondent to pay all costs in this action, including expert witness, consultant, and attorney's fees; and
6. Granting such other relief as the Board deems appropriate and just.

COUNT II

CREATING A WATER POLLUTION HAZARD

1-26. Complainant realleges and incorporates by reference herein paragraphs 1 through 19 and paragraphs 21 through 27 of Count I as paragraphs 1 through 26 of this Count II.

27. Section 12(d) of the Act, 415 ILCS 5/12(d) (2004), provides as follows:

No person shall:

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

28. From at least April 22, 2005 through at least May 11, 2007, on dates better known to Respondent, Respondent Mathews deposited contaminants, consisting of Fill Material, onto land near the stream and storm ditch that lead to Wonder Lake.

29. By placing these contaminants near the stream and storm ditch where they could be exposed to storm water and run off into waters of the State, Respondent Mathews created a water pollution hazard and thereby violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2004).

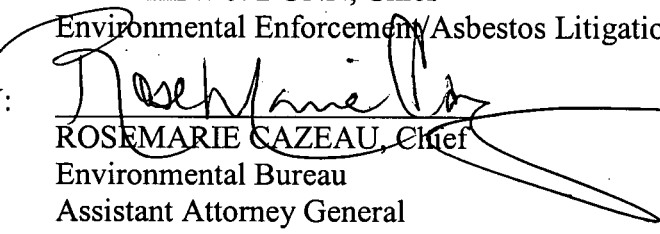
WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, THOMAS P. MATHEWS, for the following relief:

1. Authorize a hearing in this matter at which time Respondent will be required to answer the allegations herein;
2. Find that Respondent has violated Section 12(d) of the Act;
3. Order Respondent to cease and desist from any violations of Section 12(d) of the Act, including, but not limited to, stabilization of the entrance of the Site;
4. Assess against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and Ten Thousand Dollars (\$10,000.00) for each day of violation;
5. Order Respondent to pay all costs in this action, including expert witness, consultant, and attorney's fees; and
6. Granting such other relief as the Board deems appropriate and just.

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

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

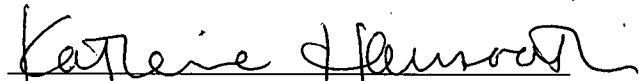
BY:


ROSEMARIE CAZEAU, Chief
Environmental Bureau
Assistant Attorney General

OF COUNSEL
KATHERINE M. HAUSRATH
Assistant Attorney General
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(312) 814-0660

CERTIFICATE OF SERVICE

I, KATHERINE M. HAUSRATH, an Assistant Attorney General, do certify that I caused to be mailed this 11 day of June, 2007, the foregoing Complaint and Notice of Filing upon the person listed on said notice, by certified mail.



KATHERINE M. HAUSRATH
Assistant Attorney General
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312-814-0660