

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,	)	
LISA MADIGAN, Attorney General of	)	
the State of Illinois,	)	
	)	
Complainant,	)	
	)	
v.	)	No. 07-133
	)	(Enforcement-Water)
THOMAS P. MATHEWS, an individual,	)	
	)	
Respondent.	)	

NOTICE OF FILING


TO: James A. Champion  
Champion, Curran, Dunlop & Lamb P.C.  
8600 U.S. Highway 12, Suite 201  
Crystal Lake, Illinois 60012

PLEASE TAKE NOTICE that today I have filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the following First Request for Production of Documents, a copy of which is attached and hereby served upon you.

Respectfully submitted,

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

BY:

  
\_\_\_\_\_  
Andrew Armstrong  
Assistant Attorney General  
Environmental Bureau  
69 W. Washington St., 18th Floor  
Chicago, Illinois 60602  
312-814-0660

DATE: January 15, 2008

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS,	)	
LISA MADIGAN, Attorney General of	)	
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Complainant,	)	
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v.	)	No. 07-133
	)	(Enforcement-Water)
THOMAS P. MATHEWS, an individual,	)	
	)	
Respondent.	)	

**COMPLAINANT'S FIRST REQUEST FOR PRODUCTION  
OF DOCUMENTS TO RESPONDENT THOMAS P. MATHEWS**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, pursuant to pursuant to Section 101.616 of the Illinois Pollution Control Board's Procedural Regulations, 35 Ill. Adm. Code 101.616, and Illinois Supreme Court Rule 214, hereby serves the following request for production of documents upon Respondent, THOMAS P. MATHEWS, to be answered in writing, under oath, within twenty-eight (28) days after the service of the request.

**I. INSTRUCTIONS**

1. Respondent, Thomas P. Mathews, ("Respondent") is required, in answering this production request, to furnish all information available to Respondent or his employees, agents, contractors, experts, or consultants, or which is ascertainable by reasonable inquiry, whether or not the requested information might be available from another entity.

2. If a production request has subparts, Respondent is required to answer each part separately and in full.

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3. If Respondent cannot answer a production request in full, he is required to answer all parts of the production request to the extent possible and specify the reason for his inability to provide additional information.

4. As to each production request, or portion thereof, Respondent shall identify in the answer every oral communication, document, or writing which relates to the production request or response, whether or not such identification is specifically requested by the production request.

5. In answering each production request, Respondent shall identify each document, person, communication, or meeting which relates to, corroborates, or in any way forms the basis for the answer given.

6. Respondent shall make the requested documents available for inspection and copying at the Office of the Illinois Attorney General, 69 West Washington Street, 18th Floor, Chicago, Illinois.

7. Pursuant to Illinois Supreme Court Rule 214, Respondent is requested to serve upon Complainant corrected, supplemented, or augmented answers hereto and documents or other forms of information from whatever source, which arguably tend to show that Respondent's prior answers and/or production are, might be, were, or might have been in a sense incorrect, incomplete, potentially misleading, or less than fully responsive or truthful.

8. If dates are requested, the exact date should be given if possible. However, if the exact date cannot be determined due to absence or inadequacy of records, the best estimate should be given as to the production request and labeled as such.

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9. In construing this production request:
  - a. the singular shall include the plural and the plural shall include the singular; and
  - b. a masculine, feminine or neuter pronoun shall not exclude the other genders.

10. If Respondent encounters any ambiguity in construing any production request or any definition or instruction pertaining to any production request, Respondent shall set forth the matter deemed "ambiguous" and the construction chosen or used in responding to the production request.

11. In producing documents, Respondent is requested to furnish all documents or things in its actual or constructive possession, custody, or control, or known or available to Respondent, regardless of whether such documents or things are possessed directly by Respondent or by Respondent's attorneys, agents, employees, representatives or investigators.

12. If any requested document is not or cannot be produced in full, Respondent shall produce it to the extent possible, indicating with particularity what documents or portion of any such documents is not or cannot be produced and the reason therefor.

13. In producing documents, Respondent is requested to produce the original of each document requested together with all non-identical copies and drafts of that document.

14. All documents should be produced in the same order as they are kept or maintained by Respondent.

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15. All documents should be produced in a file, folder, envelope, or other container in which the documents are kept or maintained by Respondent. If for any reason the container cannot be produced, Respondent shall produce copies of all labels or other identifying markings.

16. Documents attached to each other should not be separated.

17. Documents not otherwise responsive to this request shall be produced if such documents refer to, relate to, or explain the documents called for by this request and constitute routing slips, transmittal memoranda or letters, comments, evaluations, or similar documents.

18. Each document request should be construed and responded to independently from each other request. The scope of any requests should not be construed to limit or narrow the scope of any other request.

19. This discovery is deemed continuing, necessitating supplemental answers by Respondent, or anyone acting on his behalf, when or if they obtain additional information which supplements or alters the answers now provided.

20. Respondent shall furnish an affidavit stating whether the production is complete in accordance with the request and in accordance with Supreme Court Rule 214.

21. Unless otherwise indicated, these Requests to Produce refer to the time period from January 1, 2005 through the date of this filing.

**II. CLAIMS OF PRIVILEGE**

1. With respect to any interrogatory which Respondent refuses to answer on a claim of privilege, Respondent shall provide a statement signed by an attorney representing Respondent setting forth for each such assertion of privilege:

- a. the name and job title of every person involved in the conversation or communication;
- b. the nature of the information disclosed;
- c. all facts relied upon in support of the claim of privilege;
- d. all documents related to the claim of privilege;
- e. all events, transactions, or occurrences related to the claim of privilege;
- f. the statute, rule, or decision which is claimed to give rise to the privilege or the reason for its unavailability.

2. If the objection relates to only part of an interrogatory, the balance of the interrogatory should be answered in full.

**III. DEFINITIONS**

1. "Communication" shall mean, without limitation, any and all forms of transferring information, including discussions, conversations, meetings, conferences, interviews, negotiations, agreements, understandings, inquiries, correspondence, documents, or other transfers of information whether written or oral or by any other means, and includes any document which abstracts, digests, transcribes or records any communication.

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2. "Complainant" shall mean the Complainant listed in the Complaint, the State of Illinois, and any of its agents, representatives, or persons who acted as Complainant's representative.

3. "Complaint" shall mean the Complaint filed on June 8, 2007 in People v. Mathews (07-PCB-133).

4. "Respondent" shall mean Thomas P. Mathews and any of Respondent's employees, agents, representatives, successors, or assigns, or any other person acting or believed by Respondent to have acted on his behalf.

5. "Document" shall be construed in its customary broad sense in accordance with Supreme Court Rules 213(e) and 214 and shall include, but is not limited to, the original and any non-identical copy, whether different from the original because of notes made on said copy or otherwise, or any agreement bank record or statement; book of account, including any ledges, sub-ledger, journal, or sub-journal; brochure; calendar; chart; check; circular; communication (intra- or inter-company or governmental entity or agency or agencies); contract; copy; correspondence; diary; draft of any document; graph; index; instruction; instruction manual or sheet; invoice job requisition; letter; license; manifest; manual; memorandum; minutes; newspaper or other clipping; note; note book; opinion; pamphlet, paper; periodical or other publication; photograph; print; receipt; record; recording report; statement; study; summary, including any memorandum, minutes, note record, or summary of any (a) telephone, videophone, or intercom conversation or message, (b) personal conversation or interview, or (c) meeting or conference; telegram; telephone log; travel or expense record; voucher; worksheet or working paper; writing; any other handwritten, printed, reproduced, recorded,

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typewritten, or otherwise produced graphic material from which the information inquired of may be obtained, or any other documentary material of any nature, in the possession, custody or control of Respondent.

6. "Illinois EPA" shall mean the Illinois Environmental Protection Agency.

7. "Knowledge" shall mean first hand information and/or information derived from any other source, including hearsay.

8. "MCSWCD" shall mean the McHenry County Soil and Water Conservation District.

9. The terms "or" and "and" in this First Request for Production of Documents, Objects, and Tangible Things shall be construed either disjunctively or conjunctively so as to elicit any facts or information which might otherwise be construed as outside its scope.

10. "Person" shall include, but is not limited to, any natural person; business or corporation, whether for profit or not, whether currently dissolved, or not; firm, partnership, or other non-corporate business organization; charitable, religious, education, governmental, or other non-profit institution, foundation, body, or other organization; or employee, agent, or representative of any of the foregoing.

11. "Present" shall mean as of the filing date of this First Request for Production of Documents, Objects, and Tangible Things.

12. "Related to" or "relating to" shall mean anything which, directly or indirectly, concerns, consists of, pertains to, reflects, evidences, describes, sets forth, constitutes, contains, shows, underlies, supports, refers to in any way, is or was used in



the preparation of, is appended to, is legally, logically or factually connected with, proves, disproves, or tends to prove or disprove.

13. "Relied upon" shall mean being or having been depended upon or referred to or being or having been arguably appropriate for such reliance.

14. "The Site" shall encompass all contiguous parcels of property owned by Respondent at the intersection of Westmoor Drive and East Oakwood Drive in Wonder Lake, McHenry County, Illinois, including, but not necessarily limited to, parcels owned by Respondent with the Permanent Property Index numbers ("PIN numbers") of 09-18-452-007, -008, -009, -010, -011, -012, -013, -014, -015, -016, -017, -018, -019 and 09-18-456-001, -002, -003, -004.

15. "Watercourse" shall mean any watercourse—including, but not limited to, any ditches—through which water flows either permanently or intermittently, and that lies either on or within twenty (20) yards distance from the Site

16. All terms not specifically defined herein shall have their logical ordinary meaning, unless such terms are defined in the Act or the regulations promulgated under the Act, in which case the appropriate or regulatory definitions shall apply.

**REQUEST FOR PRODUCTION OF DOCUMENTS**

1. Any and all documents relating to or supporting Respondent's answers to each and every one of Complainant's First Set of Interrogatories, any and all documents identified by Respondent in the course of answering each and every one of the Complainant's First Set of Interrogatories, and any and all documents consulted, reviewed, or relied by upon by Respondent in order to answer each and every of the Complainant's First Set of Interrogatories

**Electronic Filing - Received, Clerk's Office, January 15, 2008**

2. Any documents relating to or supporting Respondent's admissions or denials contained in his Answer to the Complaint and in his Response to Complainant's First Request for Admission of Facts and Genuineness of Documents, and any and all documents consulted, reviewed, or relied upon in order to answer each and every one of the allegations in the Complaint and Complainant's First Request for Admission of Facts and Genuineness of Documents.

3. All reports, including drafts, prepared by any witness in conjunction with his or her testimony; all documents that each witness relied upon in forming his/her opinion or upon which he or she intends to reply; and the resume or other documents relating to the qualification and experience of each opinion witness.

4. All documents which are in the possession of any consulting expert retained by Respondent and which relate to the issues involved in the litigation.

5. All maps depicting or relating to the Site.

6. All maps depicting or relating to any watercourse.

7. All documents relating to any man-made deposit of soil and stone at the Site, including, but not limited to, all financial records relating to such deposits.

8. All documents relating to any physical measures, including, but not limited to, silt fencing and vegetation, installed by Respondent, or caused to be installed by Respondent, and intended to prevent soil, stone, and/or silt-laden stormwater from falling into any watercourse, including, but not limited to, all financial records relating to such physical measures.

**Electronic Filing - Received, Clerk's Office, January 15, 2008**

9. All documents relating to any and all actions taken by Respondent to investigate the possibility that soil, stone, and/or silt-laden storm water could fall from the Site into any watercourse, including all financial records relating to such actions.

10. All documents which are related to the violations alleged in the Complaint, and that refute charges made in the Complaint.

11. All documents relating to any concerns expressed and/or complaints made by and from any person concerning the entry, or potential entry, of any soil, stone, and/or silt-laden stormwater from the Site into any watercourse.

12. All documents that Respondent intends to offer into evidence at trial.

13. All documents relating any communication between Respondent and any third party, including, but not limited to, Illinois EPA, the United States Army Corps of Engineers, the MCSWCD, the McHenry County Planning and Development Department, and the Village of Lake Wonder, relating to the entry, or potential entry, of any soil, stone, and/or silt-laden stormwater from the Site into any watercourse.

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

ROSEMARIE CAZEAU, Chief  
Environmental Bureau  
Assistant Attorney General

By:

\_\_\_\_\_  
ANDREW ARMSTRONG  
Assistant Attorney General  
Environmental Bureau  
69 West Washington Street, 18th Floor  
Chicago, Illinois 60602  
(312) 814-0660

**CERTIFICATE OF SERVICE**

I, ANDREW ARMSTRONG, an Assistant Attorney General, do certify that I caused to be served this 15th day of January, 2008, the foregoing Notice of Filing and First Request for Production of Documents upon the persons listed on said Notice of Filing by placing true and correct copies of each in an envelope, first class postage prepaid, and depositing same with the United States Postal Service at 69 West Washington Street, Chicago, Illinois, at or before the hour of 5:00 p.m.

  
ANDREW ARMSTRONG