



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

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APR 07 2008  
STATE OF ILLINOIS  
Pollution Control Board

**Lisa Madigan**  
ATTORNEY GENERAL

April 2, 2008

John Therriault  
Assistant Clerk of the Board  
Illinois Pollution Control Board  
James R. Thompson Center, Ste. 11-500  
100 West Randolph  
Chicago, Illinois 60601

PCB08-62

Re: **People v. Carri Scharf Materials Company, d/b/a Farmdale Sand & Gravel Pit**

Dear Clerk:

Enclosed for filing please find the original and one copy of a Notice of Filing, Appearance and Complaint in regard to the above-captioned matter. Please file the originals and return file-stamped copies to me in the enclosed envelope.

Thank you for your cooperation and consideration.

Very truly yours,

Andrew J. Nicholas  
Environmental Bureau  
500 South Second Street  
Springfield, Illinois 62706  
(217) 782-9031

AJN/pjk  
Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF )  
ILLINOIS, )  
 )  
 Complainant, )  
 )  
 vs. )  
 )  
 CARRI SCHARF MATERIALS COMPANY, )  
 d/b/a FARMDALE SAND & GRAVEL PIT, )  
 an Illinois corporation, )  
 )  
 Respondent. )

PCB No. 0862  
(Enforcement)

NOTICE OF FILING

To: Clayton Moushon  
Attorney at Law  
1009 Illini Drive  
East Peoria, IL 61611

**RECEIVED**  
CLERK'S OFFICE  
APR 07 2008  
STATE OF ILLINOIS  
Pollution Control Board

PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois, a COMPLAINT, a copy of which is 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 (2006), to correct the pollution alleged in the Complaint filed in this case.

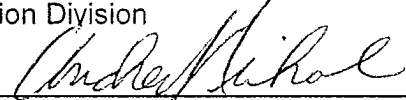
Respectfully submitted,

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: \_\_\_\_\_

  
Andrew J. Nicholas  
Assistant Attorney General  
Environmental Bureau

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: April 2, 2008

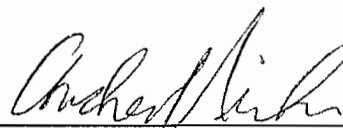
## CERTIFICATE OF SERVICE

I hereby certify that I did on April 2, 2008, send by certified mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instruments entitled NOTICE OF FILING, ENTRY OF APPEARANCE and COMPLAINT:

To: Clayton Moushon  
Attorney at Law  
1009 Illini Drive  
East Peoria, IL 61611

and the original and ten copies by First Class Mail with postage thereon fully prepaid of the same foregoing instrument(s):

To: John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
Suite 11-500  
100 West Randolph  
Chicago, Illinois 60601



---

Andrew J. Nicholas  
Assistant Attorney General

This filing is submitted on recycled paper.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED  
CLERK'S OFFICE

APR 07 2008

STATE OF ILLINOIS  
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
v. )  
)  
)  
CARRI SCHARF MATERIALS COMPANY, )  
d/b/a FARMDALE SAND & GRAVEL PIT )  
an Illinois corporation, )  
)  
Respondent. )

PCB NO. 0862  
(Enforcement - Water)

Entry of Appearance

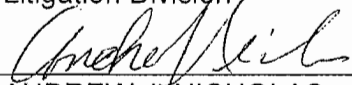
On behalf of the Complainant, PEOPLE OF THE STATE OF ILLINOIS, ANDREW J. NICHOLAS, Assistant Attorney General of the State of Illinois, hereby enters his appearance as attorney of record.

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:

  
\_\_\_\_\_  
ANDREW J. NICHOLAS  
Environmental Bureau  
Assistant Attorney General

Attorney I.D. #6285057  
500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: April 2, 2008

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, )

**RECEIVED**  
Complainant, CLERK'S OFFICE

v.

APR 07 2008

PCB NO. 08-62  
(Enforcement - Water)

STATE OF ILLINOIS  
Pollution Control Board

CARRI SCHARF MATERIALS COMPANY,  
d/b/a FARMDALE SAND & GRAVEL PIT  
an Illinois corporation,

Respondent. )

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of the Respondent, CARRI SCHARF MATERIALS COMPANY, d/b/a FARMDALE SAND & GRAVEL PIT, an Illinois corporation, as follows:

COUNT I

WATER POLLUTION

1. This Complaint 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 (2006).

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 (2006), and charged, *inter alia*, with the duty of enforcing the Act.

3. Carri Scharf Materials Company ("Scharf Materials") is, and was, at all times relevant to this Complaint, an Illinois corporation in good standing authorized to do business in the State of Illinois.

4. The Respondent is the owner and operator of the Farmdale Sand & Gravel Pit ("Farmdale Sand & Gravel") in East Peoria, Tazewell County, Illinois.

5. Section 12 of the Act, 415 ILCS 5/12 (2006), 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;

\* \* \*

d. Deposit any contaminants upon the land in such place and manner so as to create a water pollution hazard;

6. Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203 (2005), prohibits offensive conditions in waters of the State:

Waters for 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...

7. On June 16, 2006, the Illinois EPA inspected Farmdale Sand & Gravel in East Peoria, Illinois. The Illinois EPA observed that the settling pond and filtration pit on-site was discharging waste water to an unnamed stream that is a tributary to Farm Creek. The settling pond was discharging through one of three breached areas in the berm that separates the pond from the streambed. The Illinois EPA further noted that the filtration pit was discharging waste water down the site entrance road to the receiving stream. The water discharging from the pit was turbid and the streambed at that location was covered in sand and gravel.

8. During the June 16, 2006 inspection, the Illinois EPA noticed that dredged material from the pond was being dumped at the outlet of the pond, along the edge of the stream. Leachate from the material was draining into the receiving stream.

9. Section 3.545 of the Act, 415 ILCS 5/3.545 (2006), defines "water pollution" as

follows:

"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.

10. Section 3.165 of the Act, 415 ILCS 5/3.165 (2006), provides the following

definitions:

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

11. The unnamed stream that is a tributary and Farm Creek are "waters" of the State

as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2006), 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.

12. By causing or allowing or threatening the discharge of contaminants into the waters of the state, as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious, Scharf Materials has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2006).

13. By depositing contaminants upon the land in such place and manner so as to create a water pollution hazard, Scharf Materials has violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2006).



### **PRAYER FOR RELIEF**

WHEREFORE, the Complainant, People of the State of Illinois, respectfully requests that the Board grant the following relief:

- A. Find that the Respondent, CARRI SCHARF MATERIALS COMPANY, has violated the Act and regulations as herein alleged;
- B. Order the Respondent to cease and desist from any further violations of the Act and associated regulations;
- C. Assess against the Respondent a monetary penalty of up to fifty thousand dollars (\$50,000) for each violation and up to an additional ten thousand dollars (\$10,000) for each day that the violation has continued;
- D. Award the Complainant its costs and reasonable attorney's fees and;
- E. Grant such other relief as the Board may deem appropriate.

### **COUNT II**

#### **OPERATING PERMIT VIOLATIONS**

1-13. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 13 of Count I as paragraphs 1 through 13 of this Count II.

12. On June 16, 2006, Scharf Materials was operating under Operating Permit #2006-MO-2133.

13. Special Condition of Operation Permit #2006-MO-2133 does not allow discharge of storm water or waste water unless an NPDES Permit is obtained.

14. Since Scharf Materials has caused or allowed the discharge of waste water and storm water without an NPDES Permit it is in violation of its Operating Permit and in violation of Section 12(f) of the Act, 415 ILCS 5/12(f) (2006) and Section 309.102(a) of the Board's Water Pollution Regulations. 35 Ill. Adm. Code 309.102(a) (2005).

### **PRAYER FOR RELIEF**

WHEREFORE, the Complainant, the People of the State of Illinois, respectfully requests that the Board grant the following relief:

- A. Find that the Respondent, CARRI SCHARF MATERIALS COMPANY, has violated the Act and regulations as herein alleged;
- B. Order Respondent to cease and desist from any further violations of the Act and associated regulations;
- C. Assess against Respondent a civil penalty of fifty thousand dollars (\$50,000) for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000) for each day during which each violation has continued thereafter;
- D. Award to Complainant its costs and reasonable attorney's fees; and
- E. Grant such other relief as the Board may deem appropriate.

### **COUNT III**

#### **DISCHARGING WITHOUT AN NPDES PERMIT**

1-13. Complainant realleges and incorporates herein by reference paragraphs 1 through 13 of Count I as paragraphs 1 through 13 of this Count III.

14. Section 12(f) of the Act, 415 ILCS 5/12(f) (2006), provides that no person shall cause, threaten, or allow the discharge of any contaminant into the waters of the State without an NPDES permit for point source discharges issued by the Illinois EPA.

15. Section 309.102(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a) (2005), requires an NPDES permit:

Except as in compliance with the provisions of the Act, Board regulations, and the CWA [Clean Water Act], 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.

16. Section 404.101(a)(1) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 404.101(a)(1) (2005) provides:

- a) Except as provided in Sections 404.102 and 404.103 no person shall:
  - 1) Prepare land for mining activities or construct a mine related facility which could generate refuse, result in a discharge or have the potential to cause water pollution without a construction permit; or

\* \* \* \* \*

17. On June 16, 2006, Farmdale Sand and Gravel was not covered by a NPDES storm water or waste water permit.

18. By allowing its settling pond and filtration pit to discharge waste water into the receiving stream without an NPDES permit, the Respondent caused, threatened or allowed the discharge of contaminants into the waters of the State in violation of Section 12(f) of the Act, 415 ILCS 5/12(f) (2006), and Sections 309.102(a) and 404.101(a)(1) of the Board's Water Pollution Regulations. 35 Ill. Adm. Code 309.102(a), 404.101(a)(1) (2005).

#### **PRAYER FOR RELIEF**

WHEREFORE, the Complainant, People of the State of Illinois, respectfully requests that the Board grant the following relief:

- A. Find that the Respondent, CARRI SCHARF MATERIALS, has violated the Act and regulations as herein alleged;
- B. Order the Respondent to cease and desist from any further violations of the Act and associated regulations;
- C. Assess against the Respondent a monetary penalty of up to fifty thousand dollars (\$50,000) for each violation and up to an additional ten thousand dollars (\$10,000) for each day that the violation has continued;
- D. Award the Complainant its costs and reasonable attorney's fees; and
- E. Grant such other relief as the Board may deem appropriate.

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: \_\_\_\_\_  
THOMAS DAVIS, Chief  
Environmental Bureau  
Assistant Attorney General

Of Counsel

ANDREW J. F. CHOLAS  
Assistant Attorney General  
500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: April 2, 2008