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CLERK'S OFFICE

JAN 09 2009

STATE OF ILLINOIS
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

January 7, 2009

PCB09-47

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

Re: ***People v. Birds Pinkstaff Water Dist.***

Dear Clerk:

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

Thank you for your cooperation and consideration.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Andrew J. Nicholas".

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

AJN/pk
Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

JAN 09 2009

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF)
 ILLINOIS,)
)
 Complainant,)
)
 vs.)
)
 BIRDS PINKSTAFF WATER DISTRICT,)
 an Illinois not-for-profit corporation,)
)
 Respondent.)

PCB No. 09-47
(Enforcement - Water)

NOTICE OF FILING

To: Birds Pinkstaff Water District
c/o Ed Bailey, President
R.R. #2, Box 201
Lawrenceville, IL 62439

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.

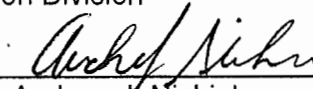
Respectfully submitted,

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. Nichiolas
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: January 7, 2009

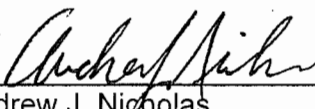
CERTIFICATE OF SERVICE

I hereby certify that I did on January 7, 2009, 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: Birds Pinkstaff Water District
c/o Ed Bailey, President
R.R. #2, Box 201
Lawrenceville, IL 62439

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

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JAN 09 2009

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF)
ILLINOIS,)
)
Complainant,)
)
vs.)
)
BIRDS PINKSTAFF WATER DISTRICT,)
an Illinois not-for-profit corporation,)
)
Respondent.)

PCB No. 09-47
(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
Andrew J. Nicholas
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: January 7, 2009

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STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.)
)
 BIRDS PINKSTAFF WATER DISTRICT,)
 an Illinois Not-For-Profit Corporation,)
)
)
 Respondent.)

PCB NO. 09-47
(Enforcement - Water)

COMPLAINT

Complainant, 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, complains of the Respondent BIRDS PINKSTAFF WATER DISTRICT, as follows:

COUNT I

PUBLIC WATER SUPPLY VIOLATIONS

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 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 investigating and enforcing violations of the Act.

3. The Respondent, Birds Pinkstaff Water District (“Respondent”), is an Illinois non-profit located in north-central Lawrence County, Illinois.

4. The Respondent serves 728 customers through 280 connections.

5. The Respondent is a “public water supply” as that term is defined under Section 3.365 of the Act, 415 ILCS 5/3.365 (2006), as follows:

“PUBLIC WATER SUPPLY” means all mains, pipes and structures through which water is obtained and distributed to the public, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use and which serve at least 15 service connections or which regularly serve at least 25 persons at least 60 days per year. A public water supply is either a “community water supply” or a “non-community water supply”.

6. The Respondent is a “public water supply” as that term is defined under Section 1 of the Public Water Supply Regulation Act, 415 ILCS 40/1 (2007), as follows:

“PUBLIC WATER SUPPLY” means all mains, pipes and structures through which water is obtained and distributed to the public, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use in incorporated municipalities; or unincorporated communities where 10 or more separate lots or properties are being served or intended to be served; State owned parks and memorials; and State-owned educational, charitable, or penal institutions.

7. Respondent’s public water supply is a “public water system” (“PWS”), a “community water system” (“CWS”), and a “ground water system” (“GWS”), as those terms are defined under Section 611.101 of the Pollution Control Board’s (“Board”) Public Water Supplies Regulations, 35 Ill. Adm. Code 611.101 (2005), as follows:

“COMMUNITY WATER SYSTEM” or “CWS” means a public water system

(PWS) that serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

* * * *

“GWS” means “groundwater system”, a public water supply (PWS) that uses only ground water sources.

* * * *

“PUBLIC WATER SYSTEM” or “PWS” means a system for the provision to the public of piped water for human consumption, if such system has at least fifteen service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. A PWS is either a community water system (CWS) or a non-community water system (non-CWS). Such term includes:

Any collection, treatment, storage and distribution facilities under control of the operator of such system and used primarily in connection with such system; and

Any collection or pretreatment storage facilities not under such control that are used primarily in connection with such system.

8. The Respondent is a “person” as that term is defined under Section 3.315 of the Act, 415 ILCS 5/3.315 (2006), as follows:

“PERSON” is any individual, partnership, copartnership, 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, agency or assigns.

9. The Respondent is a “supplier” as that term is defined under Section 611.101 of the Board’s Public Water Supplies Regulations, 35 Ill. Adm. Code 611.101 (2005), as follows:

“SUPPLIER OF WATER” or “SUPPLIER” means any person who owns or operates a public water system (PWS).

* * * *

10. Section 18 of the Act, 415 ILCS 5/18 (2006), provides the following prohibition:

(a) No person shall:

(1) Knowingly cause, threaten or allow the distribution of water from

any public water supply of such quality or quantity as to be injurious to human health; or

* * * *

11. Section 611.101 of the Board's Public Water Supplies Regulations, 35 Ill. Adm.

Code 611.101 (2005), provides, in pertinent part:

* * * *

"Maximum contaminant level" or "MCL" means the maximum permissible level of a contaminant in water that is delivered to any user of a public water system.

12. Section 611.121 of the Board's Public Water Supplies Regulations, 35 Ill. Adm.

Code 611.121 (2005), provides, in pertinent part:

Maximum Contaminant Levels and Finished Water Quality

- a) Maximum Contaminant Levels: No person may cause or allow water that is delivered to any user to exceed the MCL for any contaminant.
- b) Finished Water Quality.
 - 1) The finished water delivered to any user at any point in the distribution system must contain no impurity at a concentration that may be hazardous to the health of the consumer or that would be excessively corrosive or otherwise deleterious to the water supply. Drinking water delivered to any user at any point in the distribution system must contain no impurity that could reasonably be expected to cause offense to the sense of sight, taste, or smell.
 - 2) No substance used in treatment should remain in the water at a concentration greater than that required by good practice. A substance that may have a deleterious physiological effect, or one for which physiological effects are not known, must not be used in a manner that would permit it to reach the consumer.

13. Section 611.301 of the Board's Public Water Supplies Regulations, 35 Ill. Adm.

Code 611.301 (2005), provides, in pertinent part:

* * * *

- b) The MCLs in the following table apply to CWSs. Except for fluoride, the MCLs also apply to NTNCWSs. The MCLs for nitrate, nitrite, and total nitrate and nitrite also apply to transient non-CWSs.

Contaminant	MCL	Units
Antimony	0.006	mg/l
Arsenic (effective January 23, 2006)	0.010	mg/l
Asbestos	7	MFL
Barium	2	mg/l
Beryllium	0.004	mg/l
Cadmium	0.005	mg/l
Chromium	0.1	mg/l
Cyanide (as free CN ⁻)	0.2	mg/l
Fluoride	4.0	mg/l
Mercury	0.002	mg/l
Nitrate (as N)	10	mg/l
Nitrite (as N)	1	mg/l
Total Nitrate and Nitrite (as N)	10	mg/l
Selenium	0.05	mg/l
Thallium	0.002	mg/l

14. The Maximum Contaminant Level (“MCL”) for arsenic in a public water supply is 0.10 mg/L.

15. Birds Pinkstaff’s annual average for arsenic for the sampling period of April through June 2006 was determined to be 0.023 mg/L.

16. Birds Pinkstaff’s annual average for arsenic for the sampling period of July through September 2006 was determined to be 0.019 mg/L.

17. Birds Pinkstaff’s annual average for arsenic for the sampling period of October through December 2006 was determined to be 0.018 mg/L.

18. Birds Pinkstaff’s annual average for arsenic for the sampling period of January through March 2007 was determined to be 0.020 mg/L.

19. Birds Pinkstaff’s annual average for arsenic for the sampling period of April

through June 2007 was determined to be 0.016 mg/L.

20. Birds Pinkstaff's annual average for arsenic for the sampling period of July through September 2007 was determined to be 0.017 mg/L.

21. Section 611.325 of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 611.325 (2005), provides in pertinent part:

Microbiological Contaminants

- a) The MCL is based on the presence or absence of total coliforms in a sample, rather than coliform density.

* * * *

22. Birds Pinkstaff exceeded the MCL for coliform bacteria during the September 1, 2006 to September 30, 2006 monitoring period.

23. By exceeding the arsenic MCL level of 0.010 mg/L, Birds Pinkstaff violated Section 18 of the Act, 415 ILCS 5/18 (2006) and Sections 611.121 and 611.301 of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 611.121, 611.301 (2005).

24. By having a presence of coliforms in its water supply, Birds Pinkstaff violated Section 18 of the Act, 415 ILCS 5/18 (2006) and Section 611.325 of Boards Public Water Supplies Regulations, 35 Ill. Adm. Code 611.325 (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, BIRDS PINKSTAFF WATER DISTRICT, 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 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. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2006), award the Complainant its costs in this matter, including reasonable attorney's fees and expert witness costs; and

E. Grant such other relief as the Board may deem appropriate.

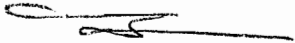
Respectfully submitted,

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
Environmental Bureau
Assistant Attorney General

Of Counsel

ANDREW J. NICHOLAS
Assistant Attorney General
500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: January 7, 2009