



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

RECEIVED  
CLERK'S OFFICE

NOV 01 2006

STATE OF ILLINOIS  
Pollution Control Board

Lisa Madigan  
ATTORNEY GENERAL

October 27, 2006

PCB07-32

The Honorable Dorothy Gunn  
Illinois Pollution Control Board  
James R. Thompson Center, Ste. 11-500  
100 West Randolph  
Chicago, Illinois 60601

Re: ***People v. Lake Arlann Drainage District, et al.***

Dear Clerk Gunn:

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,

Michael D. Mankowski  
Environmental Bureau  
500 South Second Street  
Springfield, Illinois 62706  
(217) 782-9031

MDM/pp  
Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

**RECEIVED**  
CLERK'S OFFICE

NOV 01 2006

STATE OF ILLINOIS  
Pollution Control Board

PEOPLE OF THE STATE OF )  
 ILLINOIS, )  
 )  
 Complainant, )  
 )  
 vs. )  
 )  
 LAKE ARLANN DRAINAGE DISTRICT, )  
 an Illinois drainage district, )  
 COCHRAN & WILKEN, INC., an Illinois )  
 corporation, SOUTHWIND )  
 CONSTRUCTION CORP., an )  
 Indiana corporation, )  
 )  
 Respondents. )

PCB No. *07-32*  
(Enforcement)

NOTICE OF FILING

To: Mr. Spike Guidotti, Chairman  
Lake Arlann Drainage Dist.  
3 Beachcomber Place  
Pekin, IL 61554

Cochran & Wilken, Inc.  
c/o Edward R. Gower  
Hinshaw & Culbertson LLP  
400 South Ninth Street, Ste. 200  
Springfield, IL 62701

Southwind Construction Corp.  
c/o Dirck H. Stahl  
Ziemer, Stayman, Weitzel & Shoulders, LLP  
20 N.W. First Street, 9<sup>th</sup> Fl.  
P.O. Box 916  
Evansville, IN 47706-0916

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 (2004), 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: 

MICHAEL D. MANKOWSKI  
Assistant Attorney General  
Environmental Bureau

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: October 27, 2006

**CERTIFICATE OF SERVICE**

I hereby certify that I did on October 27, 2006, 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, APPEARANCE and COMPLAINT

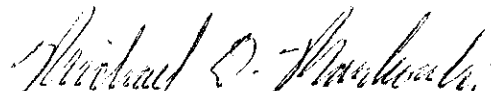
To: Mr. Spike Guidotti, Chairman  
Lake Arlann Drainage Dist.  
3 Beachcomber Place  
Pekin, IL 61554

Cochran & Wilken, Inc.  
c/o Edward R. Gower  
Hinshaw & Culbertson LLP  
400 South Ninth Street, Ste. 200  
Springfield, IL 62701

Southwind Construction Corp.  
c/o Dirck H. Stahl  
Ziemer, Stayman, Weitzel & Shoulders, LLP  
20 N.W. First Street, 9<sup>th</sup> Fl.  
P.O. Box 916  
Evansville, IN 47706-0916

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

To: Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
Suite 11-500  
100 West Randolph  
Chicago, Illinois 60601

  
MICHAEL D. MANKOWSKI  
Assistant Attorney General

This filing is submitted on recycled paper.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED  
CLERK'S OFFICE

NOV 01 2006

STATE OF ILLINOIS  
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS, )  
 )  
 )  
 Complainant, )  
 )  
 vs. )  
 )  
 LAKE ARLANN DRAINAGE DISTRICT, )  
 an Illinois drainage district, )  
 COCHRAN & WILKEN, INC., an Illinois )  
 corporation, SOUTHWIND )  
 CONSTRUCTION CORP., an )  
 Indiana corporation, )  
 )  
 Respondents. )

PCB No. 07-32  
(Enforcement)

ENTRY OF APPEARANCE

On behalf of the Complainant, PEOPLE OF THE STATE OF ILLINOIS, MICHAEL D. MANKOWSKI, 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: Michael D. Mankowski  
MICHAEL D. MANKOWSKI  
Environmental Bureau  
Assistant Attorney General

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: October 27, 2006

**RECEIVED**  
CLERK'S OFFICE

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

NOV 01 2006

STATE OF ILLINOIS  
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS, )  
ex rel. LISA MADIGAN, Attorney General )  
of the State of Illinois, )  
) )  
Complainant, )  
) )  
v. )  
) )  
LAKE ARLANN DRAINAGE DISTRICT, )  
an Illinois drainage district, )  
COCHRAN & WILKEN, INC., an Illinois )  
corporation, SOUTHWIND CONSTRUCTION )  
CORP., an Indiana corporation, )  
) )  
Respondents. )

PCB No. 07- 32  
(Enforcement)

**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 Respondents, LAKE ARLANN DRAINAGE DISTRICT, an Illinois drainage district, COCHRAN & WILKEN, INC., an Illinois corporation, and SOUTHWIND CONSTRUCTION CORP., an Indiana 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 (2004).

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 (2004), and charged *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board ("Board").

3. This Complaint is brought pursuant to Section 31 of the Act, 415 ILCS 5/31

(2004), after providing the Respondent with notice and the opportunity for a meeting with the Illinois EPA.

4. Respondent, LAKE ARLANN DRAINAGE DISTRICT ("the District"), is a drainage district created in 1978 pursuant to Article III of the Illinois Drainage Code, 70 ILCS 605/3-1 *et seq.* (2004), to address flooding and siltation problems with Lake Arlann. The chairman is Mr. Spike Guidotti, Lake Arlann Drainage District, 3 Beachcomber Place, Pekin, Illinois 61554. At all times relevant to the complaint, the District has owned and operated a confined detention facility ("CDF") located across 14<sup>th</sup> Street from Lake Arlann in Pekin, Illinois.

5. Respondent, COCHRAN & WILKEN, INC. ("CWI"), is an Illinois corporation in good standing. CWI's registered agent is Thomas L. Johnson, 5201 South 6<sup>th</sup> Street Road, Springfield, Illinois 62703-5143. At all times relevant to the complaint, CWI was the consulting engineer for the Lake Arlann sediment removal project.

6. Respondent, SOUTHWIND CONSTRUCTION CORP. ("Southwind"), is an Indiana corporation in good standing. The registered agent for Southwind is C T Corporation System, 208 South LaSalle Street, Suite 814, Chicago, Illinois 60604-1101. At all times relevant to this Complaint, Southwind was the contractor for the Lake Arlann sediment removal project.

7. Section 12 of the Act, 415 ILCS 5/12 (2004), 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;

\* \* \*

- (f) Cause, threaten or allow the discharge of any contaminant into the waters of the State, as defined herein, including but not limited to, waters to any sewage works, or into any well or from any point source within the State, without an NPDES permit for point source discharges issued by the Agency under Section 39(b) of this Act, or in violation of any term or condition imposed by such permit, or in violation of any NPDES permit filing requirement established under Section 39(b), or in violation of any regulations adopted by the Board or of any order adopted by the Board with respect to the NPDES program.

\* \* \*

8. The Respondents are "persons" as that term is defined under Section 3.315 of the Act, 415 ILCS 5/3.315 (2004), as follows:

"Person" is any individual, partnership, copartnership, firm, 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. Lake Arlann, a natural lake previously called Lake Meyers, is a "water" of the State as defined under Section 3.550 of the Act, 415 ILCS 5/3.550 (2004), as follows:

"Waters" means all accumulation 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.

10. Section 3.165 of the Act, 415 ILCS 5/3.165 (2004), defines "contaminant" as follows:

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

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

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

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

13. On or about January 17, 2002, CWI submitted on behalf of the District a permit application to the Illinois EPA in order to undertake the removal of approximately 330,000 cubic yards of accumulated sedimentation and siltation from Lake Arlann. The project required the construction of the CDF in order to store and de-water the sediment hydraulically dredged and pumped from the lake bottom to the CDF. The CDF was an earthen lagoon constructed of compacted earthen dikes with approximately 550,000 cubic yards of capacity. Discharge from the CDF flowed back into Lake Arlann. According to the Section 401 Water Quality Certification included in the permit application, the completed project will improve the water quality, fish habitat and recreational boating in Lake Arlann and the CDF will be de-watered, regraded and reclaimed for use as open prairie.

14. On May 20, 2003, the Illinois EPA issued Industrial Construction Permit No. 2003-EA-3175 to the District. Pursuant to this permit, the discharge from the CDF was required to meet an effluent limit for total suspended solids ("TSS") of 15 mg/L and otherwise comply with the water quality standards with sampling reports to be submitted monthly to the Illinois EPA. The permit also allowed but did not require the use of a flocculant as proposed in the permit application to control the suspended solids in the CDF.

15. On April 1, 2004, or a date better known to the Respondents, the District, CWI,

and Southwind began the dredging project to remove sediment from Lake Arlann.

16. On April 15, 2004, the Illinois EPA inspected the CDF. Dredging operations began around April 6, 2004. The CDF effluent was slightly brown and turbid with TSS in excess of 15 mg/l. Additional seeding and vegetative cover was needed on the embankments of the CDF and additional erosion control measures were needed on the north and south sides of the large soil stockpile mound located on the west side of the CDF.

17. On June 21, 2004, the dredging project was re-inspected by Illinois EPA. The effluent being discharged from the CDF into Lake Arlann was brown and turbid as were the receiving waters in the outlet ditch and the lake. The CDF effluent was in excess of 15 mg/l TSS.

18. Illinois EPA returned to the CDF on July 15, 2004. The effluent, outlet ditch and receiving lake waters were brown and turbid. A noticeable brown plume was present in the receiving lake around the outfall. An effluent sample was taken and subsequently determined to contain more than 15 mg/L of TSS.

19. On December 9, 2005, Illinois EPA re-inspected the CDF site. The lagoon effluent was gray-brown in color and very turbid with suspended solids present. The same color and turbidity were present in the outlet ditch and the receiving lake water. An effluent sample was taken and subsequently determined to contain more than 15 mg/L of TSS. Approximately two-thirds (2/3) of the lagoon was entirely filled with sediment.

20. A follow-up inspection was conducted by Illinois EPA on December 13, 2004. Conditions were unchanged from December 9<sup>th</sup>; the effluent was still gray-brown and very turbid. An effluent sample was taken and subsequently determined to contain more than 15 mg/L of TSS.

21. The Respondents did not utilize the flocculant as proposed in the permit application to control the suspended solids in the CDF until May 2005. In late 2004 a turbidity curtain was installed in the lake at the discharge point of the CDF, thereby allowing some of the suspended solids, silt and sediment in the effluent to deposit on the lake bottom; these deposits were later dredged and removed.

22. The District, CWI, and Southwind repeatedly discharged effluent from the CDF into Lake Arlann containing excessive levels of suspended solids, silt and sediment, resulting in offensive conditions including bottom deposits and color and turbidity of other than natural origin, and thereby violated Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203.

23. By causing, allowing or threatening the discharge of suspended solids, silt, sediment and other contaminants to waters of the State so as to cause or tend to cause water pollution in Illinois or to violate the Board's regulations or standards, the Respondents have violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2004).

#### **PRAYER FOR RELIEF**

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an Order against the Respondents, LAKE ARLANN DRAINAGE DISTRICT, COCHRAN & WILKEN, INC., and SOUTHWIND CONSTRUCTION:

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

B. Finding that Respondents have each violated the Act and regulations as alleged herein;

C. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2004), impose upon the

Respondents a monetary penalty of not more than the statutory maximum;

D. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2004), awarding to Complainant its costs and reasonable attorney fees; and

E. Grant such other and further relief as the Board deems appropriate.

**COUNT II**  
**EFFLUENT VIOLATIONS**

1-21. Complainant realleges and incorporates herein paragraphs 1 through 21 of Count I as paragraphs 1 through 24 of this Count II.

22. Section 304.124(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.124(a), imposes a generally applicable effluent limit of 15.0 mg/L.

23. Special Condition 2 of Industrial Construction Permit No. 2003-EA-3175 provides as follows:

The permittee shall operate the dredge and the disposal facilities such that the effluent does not exceed 15 mg/L total suspended solids, and otherwise complies with the water quality standards of Ill. Adm. Code, Subtitle C.

24. The following analytical results from effluent samples taken by Illinois EPA during the April 14, 2004, June 21, 2004, July 15, 2004, December 9, 2004, and December 13, 2004, inspections indicate that the Respondents repeatedly discharged effluent beyond permitted limits:

<b>Date Analyzed</b>	<b>Result (TSS) mg/L</b>
4/14/2004	86
6/21/2004	90
7/15/2004	135

Date Analyzed	Result (TSS) mg/L
12/9/2004	68
12/13/2004	1920

25. As project manager for the District, CWI sampled the discharge of effluent from the CDF and the water quality in the lake. The following analytical results indicate that the Respondents repeatedly discharged effluent beyond permitted limits:

Date Analyzed	Sample #	Location	Result (TSS) mg/L
4/27/2004	1	Outlet Dike	142.2
4/27/2004	2	Outlet Lake	133
4/27/2004	1	Outlet Dike	120
6/9/2004	1	Ditch	13.8
6/9/2004	2	Outlet	11.9
7/30/2004	1	Ditch	114
7/30/2004	2	Outlet	97.9
8/5/2004	1	Ditch	301.3
8/5/2004	2	Outlet	275
8/5/2004	3	Outside Turbidity Curtain	93.6
8/11/2004	1	Ditch	465.5
8/11/2004	2	Outlet	716.7
8/11/2004	3	Outside Turbidity Curtain	112
8/26/2004	1	Ditch	449
8/26/2004	2	Outlet	473
8/26/2004	3	Outside Turbidity Curtain	75.2
8/30/2004	1	Outlet	110
8/30/2004	2	Outside Turbidity Curtain	449
9/1/2004	2	Outside Turbidity Curtain	122.8
9/1/2004	3	Outlet	316.9
9/1/2004	4	Ditch	317.7
9/15/2004	2	Outside Turbidity Curtain	53.5
9/15/2004	3	Outlet	136.1
9/28/2004	2	Outside Turbidity Curtain	54.8
9/28/2004	3	Outlet	389.8
9/28/2004	4	Ditch	390.1

Date Analyzed	Sample #	Location	Result (TSS) mg/L
9/17/2004	2	Outside Turbidity Curtain	75
9/17/2004	3	Outlet	253
9/17/2004	4	Ditch	257.8
10/4/2004	2	Outside Turbidity Curtain	73
10/4/2004	3	Outlet	178
10/4/2004	4	Ditch	182
10/29/2004	2	Outside Turbidity Curtain	57.7
10/29/2004	3	Outlet	89.7
10/29/2004	4	Ditch	95.5
11/3/2004	1		269
11/3/2004	2		1220.6
11/8/2004	3	Lake Outlet	2519
11/8/2004	4	Weir Outlet	2539.3
11/10/2004	1	Outlet #1	146.8
11/10/2004	2	Outlet #2	132.3
12/9/2004	1	Outlet	189.1
12/15/2004	2	Outlet 10:00 am	90
12/15/2004	3	Outlet 12:00 pm	84.5
12/17/2004	1	Outlet	62.2
5/25/2005		Outlet at 11:00 am on 5/25/05	24
5/25/2005		Outlet at 1:00 pm on 5-25-05	22
5/25/2005		Outside Permeable Barrier	24
6/2/2005	1	Outlet at 10:00 am	8.2
6/2/2005	2	Outlet at 1:00 pm	10.2
6/9/2005	1	Outlet at 10:00 am	29.7
6/9/2005	2	Outlet at 11:00 am	24.5

26. By causing or allowing discharges of total suspended solids in excess of permitted and generally applicable effluent limitations, the Respondents have violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2004), and Sections 304.124(a) and 309.102(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.124(a) and 309.102(a).

27. By violating the Board's Water Pollution Regulations, the Respondents have also violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2004).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an Order against the Respondents, LAKE ARLANN DRAINAGE DISTRICT, COCHRAN & WILKEN, INC., and SOUTHWIND CONSTRUCTION:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondents have each violated the Act and regulations as alleged herein;
- C. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2004), impose upon the Respondents a monetary penalty of not more than the statutory maximum;
- D. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2004), awarding to Complainant its costs and reasonable attorney fees; and
- E. Grant such other and further relief as the Board deems appropriate.

**COUNT III**  
**SCHEDULE VIOLATIONS**

1-25. Complainant realleges and incorporates herein paragraphs 1 through 21 of Count I and paragraphs 22 through 25 of Count II as paragraphs 1 through 25 of this Count III.

26. Section 305.102(b) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 305.102(b), requires compliance with monitoring, sampling, recording, and reporting requirements:

- b) Every holder of an NPDES (National Pollutant Discharge Elimination System) permit is required to comply with the monitoring, sampling, recording and reporting requirements set forth in the permit and this Chapter.

27. Section 309.102(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code

309.102(a), prohibits unlawful discharge of contaminants into the waters of the State:

- a) Except as in compliance with the provisions of the Act, Board regulations, and the CWA, 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.

28. Section 309.146(a) of the Board's Water Pollution Regulations, 35 Ill. Adm.

309.146(a), establishes requirements for holders of NPDES permits:

- a) The Agency shall require every holder of an NPDES Permit, as a condition of the NPDES Permit issued to the holder, to
  - 1) Establish, maintain and retain records;
  - 2) Make reports;
  - 3) Install, calibrate, use and maintain monitoring equipment or methods (including where appropriate biological monitoring methods);
  - 4) Take samples of effluents (in accordance with such methods, at such locations, at such intervals, and in such a manner as may be prescribed; and
  - 5) Provide such other information as may reasonably be required.

29. Special Condition 1 of Industrial Construction Permit No. 2003-EA-3175

provides, in pertinent part, as follows:

The permittee shall monitor the effluent from the disposal facilities for total suspended solids. . . . Samples shall be collected once per week and results shall be submitted to the Agency once per month, by the 15<sup>th</sup> day of the month following sampling.

30. The Respondents failed to timely submit effluent sampling reports during the months of April through December of 2004 by the 15<sup>th</sup> of the month following sampling. The Respondents submitted the sampling data from these months in February of 2005. No reports were submitted for the months of January through April of 2005. The CDF discharged



intermittently from later December through approximately May of 2005 as CDF outfall structure stop logs were gradually removed to lower the lagoon wastewater elevation. These discharges were not monitored.

31. By violating Special Condition 1 of the NPDES Permit, the Respondents caused, threatened or allowed the discharge of any contaminant into the waters of the State in violation of any term or condition imposed by such permit, and thereby violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2004), and Sections 305.102(b), 309.102(a) and 309.146(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 305.102(b), 309.102(a) and 309.146(a).

32. By violating the Board's Water Pollution Regulations, the Respondents have also violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2004).

#### **PRAYER FOR RELIEF**

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an Order against the Respondents, LAKE ARLANN DRAINAGE DISTRICT, COCHRAN & WILKEN, INC., and SOUTHWIND CONSTRUCTION:

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

B. Finding that Respondents have each violated the Act and regulations as alleged herein;

C. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2004), impose upon the Respondents a monetary penalty of not more than the statutory maximum;

D. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2004), awarding to Complainant its costs and reasonable attorney fees; and

E. Grant such other and further relief as the Board deems appropriate.

**COUNT IV**  
**STORM WATER VIOLATIONS**

1-23. Complainant realleges and incorporates herein paragraphs 1 through 20 of Count I and paragraphs 26 through 28 of Count III as paragraphs 1 through 23 of this Count IV.

24. Storm water discharges are regulated by 40 CRF 122.26, which requires a person to obtain an NPDES permit and to implement a storm water pollution prevention plan ("SWPPP") for construction activity including clearing, grading and excavation, except operations that result in the disturbance of less than five acres of total land area.

25. On June 6, 2003, the Illinois EPA received from CWI a notice of intent ("NOI") to discharge storm water associated with construction site activities at the CDF. Coverage under NPDES General Storm Water Permit No. ILR108534 was issued to the District on July 7, 2003. The Respondents were thereby required to prepare and implement a SWPPP, conduct inspections of storm water and erosion controls on a weekly basis and after each ½-inch precipitation event, and implement interim and final stabilization controls (such as seeding or mulching).

26. During all Illinois EPA inspections, the vegetative cover on the inner and outer banks was much less than 70% density.

27. During the December 9, 2004, inspection, immediate overflow problems existed. The levee on the south side of the CDF had also been breached in at least two locations, and the discharged overflow soaked into the sandy soil adjacent to the levee. Leakage was also occurring on the CDF's east side, south of the outfall. The silt fence along the south side of the CDF was down in places and not being maintained. Much of the levee banks lacked a vegetative cover of 70% density. The lack of protective cover on the inner embankments allowed considerable erosion

and added to sediment load carried in the CDF.

28. During an inspection on July 21, 2005, much of the vegetative cover on the embankment and berms of the CDF was dead and the grass cover on the CDF's inner berm at less than 50% density when living.

29. No copy of the SWPPP was present at the CDF during any inspection. Records of weekly and other inspections were also not maintained by the Respondents.

30. By failing to maintain a copy of the SWPPP, to implement the required storm water erosion controls and interim stabilization controls such as seeding and mulching, and to conduct the necessary inspections of storm water controls, the Respondents have violated the NPDES permit and Section 12(f) of the Act, 415 ILCS 5/12(f) (2004), and Sections 305.102(b), 309.102(a) and 309.146(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 305.102(b), 309.102(a) and 309.146(a).

31. By violating the Board's Water Pollution Regulations, the Respondents have also violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2004).

#### **PRAYER FOR RELIEF**

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an Order against the Respondents, LAKE ARLANN DRAINAGE DISTRICT, COCHRAN & WILKEN, INC., and SOUTHWIND CONSTRUCTION:

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

B. Finding that Respondents have each violated the Act and regulations as alleged herein;

C. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2004), impose upon the Respondents a monetary penalty of not more than the statutory maximum;

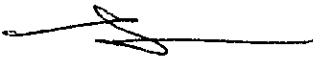
D. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2004), awarding to Complainant its costs and reasonable attorney fees; and

E. Grant such other and further relief as the Board deems 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

MICHAEL D. MANKOWSKI  
500 South Second Street  
Springfield, Illinois 62706  
217/557-0586

Dated: 10/26/15