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STATE OF ILLINOIS  
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

**Lisa Madigan**  
ATTORNEY GENERAL

November 16, 2006

PLB07-41

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

Re: ***People v. Village of Nebo***

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,

Jennifer Bonkowski  
Environmental Bureau  
500 South Second Street  
Springfield, Illinois 62706  
(217) 782-9031

JB/pp  
Enclosures

NOV 20 2006

STATE OF ILLINOIS  
Pollution Control Board

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF	)
ILLINOIS,	)
	)
Complainant,	)
	)
vs.	)
	)
VILLAGE OF NEBO,	)
Illinois municipal corporation,	)
	)
Respondent.	)

PCB No. *07-41*  
(Enforcement)

**NOTICE OF FILING**

To: Village of Nebo  
c/o Ronnie Wayne Goewey  
Nebo Village Hall  
P.O. Box 277  
Nebo, IL 62355

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.

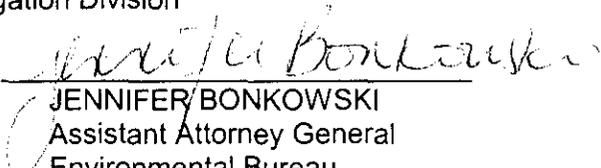
Respectfully submitted,

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:

  
JENNIFER BONKOWSKI  
Assistant Attorney General  
Environmental Bureau

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: November 16, 2006

## CERTIFICATE OF SERVICE

I hereby certify that I did on November 16, 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, ENTRY OF APPEARANCE and COMPLAINT:

To: Village of Nebo  
c/o Ronnie Wayne Goewey  
Nebo Village Hall  
P.O. Box 277  
Nebo, IL 62355

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

  
Jennifer Bonkowski  
Assistant Attorney General

This filing is submitted on recycled paper.

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STATE OF ILLINOIS  
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF )  
 ILLINOIS, )  
 )  
 Complainant, )  
 )  
 vs. )  
 )  
 VILLAGE OF NEBO, )  
 Illinois municipal corporation, )  
 )  
 Respondent. )

PCB No. 07-41  
(Enforcement)

ENTRY OF APPEARANCE

On behalf of the Complainant, PEOPLE OF THE STATE OF ILLINOIS, JENNIFER BONKOWSKI, Assistant Attorney General of the State of Illinois, hereby enters her 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: Jennifer Bonkowski  
JENNIFER BONKOWSKI  
Environmental Bureau  
Assistant Attorney General

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: November 16, 2006

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED  
CLERK'S OFFICE

NOV 20 2006

STATE OF ILLINOIS  
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS, )  
 )  
 Complainant, )  
 )  
 v. )  
 )  
 VILLAGE OF NEBO, an Illinois municipal )  
 corporation, )  
 )  
 Respondent. )

PCB NO. 07-41  
(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 Respondent, VILLAGE OF NEBO, an Illinois municipal corporation, as follows:

COUNT I  
SAMPLING VIOLATIONS

1. This Complaint is brought by the Attorney General on her own motion pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("the Act"), 415 ILCS 5/31 (2004).

2. The Illinois Environmental Protection Agency ("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. Respondent, the Village of Nebo ("Village"), is an Illinois municipal corporation located in Pike County, Illinois, and the owner and operator of a "public water supply" as that term is defined under Section 3.365 of the Act, 415 ILCS 5/3.365 (2004), 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 serves at least 15 service connections or which regularly serves 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."

The public water supply is also a community water supply or a "CWS" as that term is defined under Section 3.145 of the Act, 415 ILCS 5/3.145 (2004).

4. The Village's water supply serves approximately 435 residents from two drift wells. The water is chlorinated, fed caustic soda and sulfur dioxide, filtered, chlorinated again, fed hydrofluosilicic acid, and discharged to the distribution system in a 75,000-gallon elevated ground level storage tank.

5. Section 18(a) of the Act, 415 ILCS 5/18(a) (2004), provides, in pertinent part:

(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
- (2) Violate regulations or standards adopted by the agency pursuant to Section 15(b) of this Act or by the Board under this Act; or
- (3) Construct, install or operate any public water supply without a permit granted by the agency, or in violation of any condition imposed by such a permit.

6. Section 19 of the Act, 415 ILCS 5/19 (2004), provides:

Owners or official custodians of public water supplies shall submit such samples of water for analysis in such a course of operation pertaining to the sanitary quality, mineral quality, or adequacy of such supply as may be requested by the agency, such samples and reports shall be submitted within 15 days after demand by the Agency.

7. Section 601.101 of the Board's Public Water Supply Regulations, 35 Ill. Adm. Code 601.101, provides that:

Owners and official custodians of a public water supply in the State of Illinois shall provide pursuant to the Environmental Protection Act (Act), the Pollution Control Board (Board) Regulations, the Safe Drinking Water Act (42 U.S.C. 300f *et seq.*) continuous operation and maintenance of public water supply facilities so that the water shall be assuredly safe in quality, clean, adequate in quantity, and of satisfactory mineral characteristics for ordinary domestic consumption.

8. Section 611.521(a) of the Board's Public Water Supply Regulations, 35 Ill. Adm.

Code 611.521(a), provides that:

(a) Suppliers shall collect total coliform samples at sites which are representative of water throughout the distribution system according to a written sample siting plan, which must be approved by a [special exception permit] issued pursuant to Section 611.110.

9. Pursuant to its approved written sample siting plan, the Village must collect three coliform samples per month and submit coliform results as documentation of the sampling.

10. Pursuant to an Illinois EPA review of its files in March of 2004, the agency discovered that the Village had not submitted coliform results in August 2003, or in the months of October 2003 through February 2004. By failing to comply with Section 611.521(a) of the Board's Public Water Supply Regulations, 35 Ill. Adm. Code 611.521(a), the Respondent thereby violated Section 18(a)(2) of the Act, 415 ILCS 18(a)(2) (2004).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, VILLAGE OF NEBO:

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

B. Finding that the Respondent has 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

Respondent a monetary penalty of not more than the statutory maximum; and

- D. Grant it such other and further relief as the Board deems appropriate.

**COUNT II**  
**REPORTING VIOLATIONS**

1-7. Complainant realleges and incorporates herein by reference paragraphs 1 through 7 of Count I as paragraphs 1 through 7 of this Count II.

8. Section 611.831 of the Board's Public Water Supply Regulations, 35 Ill. Adm. Code 611.831, provides that:

Within 30 days following the last day of the month, each CWS supplier shall submit a monthly operating report to the agency on forms provided or approved by the Agency.

9. Section 653.605 of the Board's Public Water Supply Regulations, 35 Ill. Adm. Code 653.605, requires that a copy of the chlorination operating reports be submitted to the Illinois EPA each month.

10. The Village failed to submit the required operating reports for the months of May 2002 through August 2004, and upon request from the Illinois EPA, thereby violating Sections 611.831 and 653.605 of the Board's Public Water Supply Regulations, 35 Ill. Adm. Code 611.831 and 653.605, as well as Section 19 of the Act, 415 ILCS 5/19 (2004).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, VILLAGE OF NEBO:

- A. Authorizing a hearing in this matter, at which time, the Respondent will be required to answer the allegations herein;
- B. Finding that the Respondent has 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

Respondent a monetary penalty of not more than the statutory maximum; and

- D. Grant it such other and further relief as the Board deems appropriate.

**COUNT III**  
**DISINFECTION VIOLATIONS**

1-7. Complainant realleges and incorporates herein by reference paragraphs 1 through 7 of Count I as paragraphs 1 through 7 of this Count III.

8. Pursuant to Section 602.115 of the Board's Public Water Supply Regulations, 35 Ill. Adm. Code 602.115, the Illinois EPA has adopted standards and criteria, published in the form of Technical Policy Statements, governing the design, operation and maintenance of public water supplies to insure safe, adequate and clean water.

9. Section 611.240(g) of the Board's Public Water Supply Regulations, 35 Ill. Adm. Code 611.240(g), provides, in pertinent part:

- (g) CWS suppliers using ground water which is not under the direct influence of surface water shall chlorinate the water before it enters the distribution system, . . .

- (1) All CWS suppliers that are required to chlorinate pursuant to this section shall maintain residuals of free or combined chlorine at levels sufficient to provide adequate protection of human health and the ability of the distribution system to continue to deliver potable water that complies with the requirements of this Part.

\* \* \*

10. Section 653.604(a) of the Illinois EPA Technical Policy Statements, 35 Ill. Adm. Code 653.604(a), provides:

A minimum free chlorine residual of 0.2 mg/l or a minimum combined residual of 0.5 mg/l shall be maintained in all active parts of the distribution system at all times.

11. The Illinois EPA inspected the Village's water supply and treatment facility on

February 26, 2004. The subsequent analysis of a sample from a tap revealed a chlorine residual of 0.03 mg/l, less than the minimum standards required by Section 653.604(a) of the Illinois EPA Technical Policy Statements.

12. By failing to maintain the minimum chlorine residual in all active parts of the water supply distribution system, the Village has violated Section 601.101 and 611.240(g) of the Board's Public Water Supply Regulations, 35 Ill. Adm. Code 601.101 and 611.240(g).

13. By violating the Board's Public Water Supply Regulations as to disinfection requirements, the Village has also violated Sections 18(a)(1) and (2) of the Act, 415 ILCS 5/18(a)(1) and (2) (2004).

#### **PRAYER FOR RELIEF**

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, VILLAGE OF NEBO:

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

B. Finding that the Respondent has 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 Respondent a monetary penalty of not more than the statutory maximum; and

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

#### **COUNT IV** **ACCESS VIOLATIONS**

1-7. Complainant realleges and incorporates herein by reference paragraphs 1 through 7 of Count I as paragraphs 1 through 7 of this Court IV.

8. Section 4(d) of the Act, 415 ILCS 5/4(d) (2004), provides, in pertinent part, as follows:

- (d) In accordance with constitutional limitations, the agency shall have authority to enter at all reasonable times upon any private or public property for the purpose of:
  - (1) Inspecting and investigating to ascertain possible violations of this Act, any rule or regulation adopted under this Act, any permit or term or condition of a permit, or any Board order;

\* \* \*

9. On February 26, 2004, Curt Hubbard, the Village water operator, prevented the Illinois EPA's access to the water plant.

10. By preventing the Illinois EPA's access to the water operating plant for the purposes of inspection to assure compliance with the Act and associated regulations, the Village of Nebo did not continuously operate and maintain the public water supply in a manner that assured safe and quality clean drinking water, thereby violating Section 601.101 of the Board's Public Water Supply Regulations, 35 Ill. Adm. Code 601.101 and Section 18(a)(2) of the Act, 415 ILCS 5/18(a)(2) (2004).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, VILLAGE OF NEBO:

- A. Authorizing a hearing in this matter, at which time, the Respondent will be required to answer the allegations herein;
- B. Finding that the Respondent has 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 Respondent a monetary penalty of not more than the statutory maximum; and
- D. Grant it such other and further relief as the Board deems appropriate.

**COUNT V**

### **OPERATING PERMIT VIOLATIONS**

1-7. Complainant realleges and incorporates by reference herein paragraphs 1 through 7 of Count I as paragraphs 1 through 7 of this Count V.

8. The Village's operating permit No. 0994-FY1984, states that the flow through the water plant cannot exceed 70 gallons per minute.

9. Section 15(a) of the Act, 415 ILCS 5/15(a) (2004), provides as follows:

- (a) Owners of public water supplies, their authorized representatives, or legal custodians, shall submit plans and specifications to the agency and obtain written approval before construction of any proposed public water supply installations, changes or additions is started. Plans and specifications shall be complete and of sufficient detail to show all proposed construction, changes, or additions that may affect sanitary quality, mineral quality, or adequacy of the public water supply; and, where necessary, said plans and specifications shall be accompanied by supplemental data as may be required by the agency to permit a complete review thereof.

10. On March 1, 2004, the Illinois EPA again inspected the facility. On that date, the water plant was being operated in excess of its rated capacity of 70 gallons per minute. The Village had not notified the Illinois EPA regarding the change from its operating permit.

11. By allowing the water plant to exceed its permitted gallons per minute without submitting plans and specifications and obtaining written approval from the Illinois EPA, the Village violated a condition of its operating permit No. 0994-FY1984 and Section 15(a) of the Act, 415 ILCS 5/15(a) (2004), thereby violating Section 18(a)(3) of the Act, 415 ILCS 5/18(a)(3) (2004).

### **PRAYER FOR RELIEF**

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, VILLAGE OF NEBO:

- A. Authorizing a hearing in this matter, at which time, the Respondent will be

required to answer the allegations herein;

B. Finding that the Respondent has 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 Respondent a monetary penalty of not more than the statutory maximum; and

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

**COUNT VI**  
**EQUIPMENT LOCATION AND CHEMICAL STORAGE VIOLATIONS**

1-7. Complainant realleges and incorporates herein by reference paragraphs 1 through 7 of Count I as paragraphs 1 through 7 of this Count VI.

8. Section 653.601 of the Board's Public Water Supply Regulations, 35 Ill. Adm. Code

653.601, provides, in relevant part, as follows:

- e) Equipment Location and Storage of Chemical
  - 1) Gas Feed Equipment
  - 2) A) Gas feed equipment and all cylinders shall be located in a separate room away from other operating areas. The room shall be free from excessive heat.

\* \* \*

9. Section 370.1021 of the Board's Public Water Supply Regulations, 35 Ill. Adm. Code 370.1021, provides, in relevant part, as follows:

Dechlorination.

h) Housing

- 1) Container and Equipment Location

Containers and feed equipment should be located inside a

fire resistant building. Gas cylinders and containers should be protected from direct sunlight.

A) Isolation

If gas sulfonation equipment and sulfur dioxide cylinders will be located in a building also used for other purposes, the sulfur dioxide equipment and containers shall be located in an isolated room that shall not contain any chlorination equipment, chlorine containers or any other equipment unrelated to sulfonation. Common walls to other areas of the building shall be gastight. Doors to the room shall open only to the outside and shall be equipped with panic hardware. Rooms shall be at ground level and shall allow easy access to all equipment. Storage areas should be separated from feed areas; sulfur dioxide and chlorine cylinders shall be stored in separate areas.

10. On March 1, 2004, hydrofluosilicic acid and hydrochloric acid were stored in the sulfur dioxide feed room. There was a door between the chlorine and sulfur dioxide feed rooms. Doors to rooms containing sulfur dioxide are required to be open only to the outside.

11. By storing gas feed equipment in the operating area, and by having sulfur dioxide located in a room that opened to a room containing chlorine and was not open only to the outside, the Village has violated Sections 653.601 and 370.1021 of the Board's Regulations, 35 Ill. Adm. Code 653.601, and 370.1021, thereby violating Section 18(a)(2) of the Act, 415 ILCS 5/18(a)(2) (2004).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, VILLAGE OF NEBO:

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

B. Finding that the Respondent has 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 Respondent a monetary penalty of not more than the statutory maximum; and

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

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,  
*ex rel.* LISA MADIGAN, Attorney General  
State of Illinois

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

BY:

  
THOMAS DAVIS, Chief  
Environmental Bureau  
Assistant Attorney General

Of Counsel:

JENNIFER BONKOWSKI  
Assistant Attorney General  
Environmental Bureau  
500 South Second Street  
Springfield, Illinois 62706  
(217) 782-9031  
Dated: 11/15/06