



**RECEIVED**  
CLERK'S OFFICE

NOV 20 2006

OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

STATE OF ILLINOIS  
Pollution Control Board

**Lisa Madigan**  
ATTORNEY GENERAL

November 16, 2006

*PLB07-42*

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

Re: ***People v. Environmental Reclamation Company***

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

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD** NOV 20 2006

PEOPLE OF THE STATE OF )  
 ILLINOIS, )  
 )  
 Complainant, )  
 )  
 vs. )  
 )  
 ENVIRONMENTAL RECLAMATION )  
 COMPANY, an Illinois corporation, )  
 )  
 Respondent. )

STATE OF ILLINOIS  
Pollution Control Board

PCB No. 07-42  
(Enforcement)

**NOTICE OF FILING**

To: Environmental Reclamation Co.  
c/o CT Corporation System  
208 South LaSalle St.  
Suite 814  
Chicago, IL 60604-1101

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.

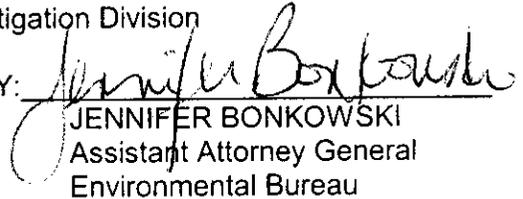
Respectfully submitted,

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: Environmental Reclamation Co.  
c/o CT Corporation System  
208 South LaSalle St.  
Suite 814  
Chicago, IL 60604-1101

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.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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Pollution Control Board

PEOPLE OF THE STATE OF )  
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 ENVIRONMENTAL RECLAMATION )  
 COMPANY, an Illinois corporation, )  
 )  
 Respondent. )

PCB No. 07-42  
(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  
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STATE OF ILLINOIS  
Pollution Control Board

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
vs. )  
)  
ENVIRONMENTAL RECLAMATION )  
COMPANY, an Illinois corporation, )  
)  
Respondent. )

PCB No. 07- 42  
(Enforcement)

**COMPLAINT**

The 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, ENVIRONMENTAL RECLAMATION COMPANY, as follows:

**COUNT I**  
**UNCOVERED REFUSE VIOLATIONS**

1. This Complaint is brought on behalf of the 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 ("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 pursuant to Section 4 of the Act, 415 ILCS 5/4 (2004), and charged, *inter alia*, with the duty of enforcing the Act before the Illinois Pollution control Board ("Board").
3. The Respondent, Environmental Reclamation Company ("ERC"), is an Illinois corporation in good standing and doing business as the Coles County Landfill.
4. The Respondent operates a "sanitary landfill" as such term is defined at Section 3.445 of the Act, 415 ILCS 5/3.445 (2004), pursuant to Landfill Permit Number 1994-524-LFM

("the permit") at West Route 316, Charleston, Coles County, Illinois County, Illinois. Among the terms and conditions of the permit are prohibitions against litter and storm water runoff causing off-site impacts.

5. Section 21 of the Act, 415 ILCS 5/21 (2004), provides, in pertinent part, as follows:

No person shall:

\* \* \*

- d. Conduct any waste-storage, waste-treatment, or waste-disposal operation:
  - 1. Without a permit granted by the Agency or in violation of any conditions imposed by such permit. . . .
  - 2. In violation of any regulations or standards adopted by the Board under this Act.

\* \* \*

- o. Conduct a sanitary landfill operation which is required to have a permit under subsection (d) of this Section, in a manner which results in any of the following conditions:

\* \* \*

- 5. uncovered refuse remaining from any previous operating day or at the conclusion of any operating day, unless authorized by permit;

\* \* \*

- 12. failure to collect and contain litter from the site by the end of each operating day;

\* \* \*

6. Section 811.106(a) of the Board's Waste Disposal Regulations, 35 Ill. Adm.

Code 811.106(a), provides as follows:

- a) A uniform layer of at least 0.15 meter (six inches) of clean soil material must be placed on all exposed waste by the end of each day of operation.

\* \* \*

7. On March 23, 2004, the Illinois EPA inspected the landfill and investigated the site conditions, including storm water runoff and erosion controls. The previous operating day's

waste in active fill area was adequately covered. On the west side of the landfill, the ditch between the county road and another ditch closer to the landfill (respectively, the "road ditch" and the "landfill ditch") was full of silt and sediment washed down from the slope of the landfill. The vegetation on the lower slope was inadequate to capture the sedimentation from the bare earth portions of the upper slope on the western face of the landfill. The road ditch drains into Riley Creek. Trees bordering the east and northeast sides of the landfill site were full of plastic bags and other litter which had blown by the high winds during the previous weekend.

8. On June 15, 2004, the Illinois EPA inspected the landfill and investigated the runoff and other problems documented during the previous inspection. Although ERC had cleaned the sediment and silt out of the road ditch on May 5, 2004, more recent heavy rains had caused runoff from the landfill to fill up the road ditch again with sedimentation. A six-inch erosion gully was present on the west side of the landfill. Litter was present in the trees, along the access road and at other areas of the site. Exposed waste was present along the haul road and remained uncovered in the active area from the previous operating day. An Administrative Citation was subsequently filed with the Board regarding the litter and uncovered refuse violations, and resolved by payment of a \$1,000.00 penalty; see PCB AC 05-11.

9. On August 3, 2004, the Illinois EPA inspected the landfill and investigated the runoff and other problems documented during the previous inspections. Litter was not observed. ERC had installed a sedimentation fence and planned to place check bales and other devices in the road ditch to prevent sediment from flowing into the creek.

10. On October 19, 2004, the Illinois EPA inspected the landfill and investigated the runoff and other problems documented during the previous inspections. There was heavy sedimentation in the road ditch. Turbid water was flowing toward and discharging into Riley Creek. Some of the sedimentation fence had washed away and check bales recently placed in the road ditch were no longer in the ditch. Litter was not present, but exposed waste was

sticking out from the cover material and there was uncovered refuse in the active area from the previous operating day.

11. On December 2, 2004, the Illinois EPA inspected the landfill and investigated the runoff and other problems documented during the previous inspections. While the road ditch was still full of sediment, the check bales had been replaced and secured, thereby allowing relatively clear water to discharge into the creek.

12. On March 8, 2005, the Illinois EPA inspected the landfill and determined that it was in compliance with its permit and other requirements.

13. By failing to properly cover landfill waste by placing a uniform layer of at least six inches of clean soil material on top of the landfill waste by the end of each day of operation, the Respondent has violated its permit and Section 811.106(a) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code Section 811.106(a), and thereby violated Sections 21(d) and 21(o) of the Act, 415 ILCS 5/21(d) and (o) (2004).

#### **PRAYER FOR RELIEF**

WHEREFORE, the Complainant, People of the State of Illinois, respectfully requests that this Board enter an Order against the Respondent, ENVIRONMENTAL RECLAMATION COMPANY:

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

B. Finding the Respondent has violated the Act and regulations as alleged herein;

C. Ordering the Respondent to cease and desist from any further violations of the Act and associated regulations;

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2004), impose a civil penalty of not more than the statutory maximum; and

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

**COUNT II**  
**WATER POLLUTION VIOLATIONS**

1-12. Complainant realleges and incorporates herein by reference paragraphs 1 through 12 of Count I as paragraphs 1 through 12 of this Count II.

13. 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.

\* \* \*

14. Section 3.545 of the Act, 415 ILCS 5/3.545 (2004), provides the following definition:

"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.

15. Section 811.103(a) of the Board's Waste Disposal Regulations, 35 Ill. Adm.

Code 811.103(a), provides as follows:

- a) Runoff From Disturbed Areas
  - 1) Runoff from disturbed areas resulting from precipitation events less than or equal to the 25-year, 24-hour precipitation event that is discharged to waters of the State shall meet the requirements of 35 Ill. Adm. Code 304.
  - 2) All discharges of runoff from disturbed areas to waters of the State shall be permitted by the Agency in accordance with 35 Ill. Adm. Code 309.
  - 3) All treatment facilities shall be equipped with bypass outlets designed to pass the peak flow of runoff from the 100-year, 24-hour precipitation event without damage to the treatment facilities or surrounding structures.
  - 4) All surface water control structures shall be operated until the final cover is placed and erosional stability is provided by the vegetative or other cover meeting the requirements of Section 811.205 or 811.322.
  - 5) All discharge structures shall be designed to have flow velocities that will not cause erosion and scouring of the natural or constructed lining, i.e. bottom and sides, of the receiving stream channel.

16. ERC has caused, threatened or allowed the discharge of silt, sediment and other contaminants into Riley Creek so as to cause or tend to cause water pollution, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2004).

17. ERC is not permitted by the Agency in accordance with 35 Ill. Adm. Code 309 for its discharges of runoff from disturbed areas to waters of the State and has otherwise failed to comply with Section 811.103(a) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 811.103(a).

18. ERC has caused, threatened or allowed the discharge of silt, sediment and other contaminants into Riley Creek without an NPDES permit for point source discharges issued by the Agency, and thereby violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2004).

19. By failing to properly control storm water runoff from the site, the Respondent has violated its permit and thereby violated Section 21(d) of the Act, 415 ILCS 5/21(d) (2004).

**PRAYER FOR RELIEF**

WHEREFORE, the Complainant, People of the State of Illinois, respectfully requests that this Board enter an Order against the Respondent, ENVIRONMENTAL RECLAMATION COMPANY:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding the Respondent has violated the Act and regulations as alleged herein;
- C. Ordering the Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2004), impose a civil penalty of not more than the statutory maximum; 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

JENNIFER BONKOWSKI  
Assistant Attorney General  
500 South Second Street  
Springfield, Illinois 62706  
217/782-9031

Dated: 11/15/06