

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
LISA MADIGAN, Attorney General of)
the State of Illinois,)
)
Complainant,)
)
v.) No. 07-133
) (Enforcement-Water)
THOMAS P. MATHEWS, an individual,)
)
Respondent.)

NOTICE OF FILING


TO: James A. Champion
Champion, Curran, Dunlop & Lamb P.C.
8600 U.S. Highway 12, Suite 201
Crystal Lake, Illinois 60012

PLEASE TAKE NOTICE that today I have filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the following First Request for Admission of Facts and Genuineness of Documents, a copy of which is attached and hereby served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
LISA MADIGAN,
Attorney General of the
State of Illinois

BY:


Andrew Armstrong
Assistant Attorney General
Environmental Bureau
69 W. Washington St., 18th Floor
Chicago, Illinois 60602
312-814-0660

DATE: January 15, 2008

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
LISA MADIGAN, Attorney General of)
the State of Illinois,)
Complainant,)
v.)
THOMAS P. MATHEWS, an individual,)
Respondent.)

No. 07-133
(Enforcement-Water)

COMPLAINANT'S FIRST REQUEST
FOR ADMISSION OF FACTS AND GENUINENESS OF DOCUMENTS
TO RESPONDENT THOMAS P. MATHEWS

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN,
Attorney General of the State of Illinois, pursuant to Sections 101.616 and 101.618 of the
Illinois Pollution Control Board's Procedural Regulations, 35 Ill. Adm. Code 101.616
and 101.618, and Illinois Supreme Court Rule 216, hereby serves the following Request
for Admission of Facts upon Respondent THOMAS P. MATHEWS, to be answered in
writing, under oath, within twenty-eight (28) days after the service of the request. Failure
to respond to the following requests to admit within twenty-eight (28) days may have
severe consequences. Failure to respond to the following requests will result in all the
facts requested being deemed admitted as true for this proceeding. If you have any
questions about this procedure, you should contact the hearing officer assigned to this
proceeding or an attorney.

INSTRUCTIONS

1. With respect to any requested admission which Respondent refuses to
answer because of a claim of privilege, provide a statement signed by an attorney
representing Respondent setting forth as to each:

- a. the nature of the claim of privilege;
- b. the statute, rule, or decision which is claimed to give rise to the claim of privilege;
- c. all facts relied upon in support of the claim of privilege;
- d. an identification of all documents related to the claim of privilege;
- e. an identification of all persons having knowledge of any facts related to the claim of privilege; and
- f. an identification of all events, transactions, or occurrences related to the claim of privilege.

2. For all requested admissions which Respondent denies or which Respondent can neither admit nor deny, pursuant to Supreme Court Rule 216(c), Respondent is required to provide Complainant with a sworn statement denying specifically the matters of which admission is requested or setting forth in detail the reasons why Respondent cannot truthfully admit or deny those matters.

DEFINITIONS

1. "Illinois EPA" shall mean the Illinois Environmental Protection Agency.
2. "Present" shall mean as of the filing date of this Request for Admission of Facts.
3. "Respondent" shall mean Thomas P. Mathews.
4. "The Site" shall encompass all contiguous parcels of property owned by Respondent at the intersection of Westmoor Drive and East Oakwood Drive in Wonder Lake, McHenry County, Illinois, including, but not necessarily limited to, parcels owned by Respondent with the Permanent Property Index numbers ("PIN numbers") of 09-18-452-007, -008, -009, -010, -011, -012, -013, -014, -015, -016, -017, -018, -019 and 09-18-456-001, -002, -003, -004.
5. All terms not specifically defined herein shall have their logical ordinary meaning, unless such terms are defined in the Illinois Environmental Protection Act, 415 ILCS 5/1 *et seq.*, or the regulations promulgated thereunder, in which case the appropriate statutory or regulatory definitions shall apply.

FACTS

FACT NO. 1

Admit that soil is solid matter.

RESPONSE:

FACT NO. 2

Admit that stone is solid matter.

RESPONSE:

FACT NO. 3

Admit that Respondent has owned the Site from at least April 22, 2005 through the present.

RESPONSE:

FACT NO. 4

Admit that Respondent has exercised control over the Site from at least April 22, 2005 through the present.

RESPONSE:

FACT NO. 5

Admit that there were one or more piles of soil, stone, and/or other fill materials on the Site on April 22, 2005.

RESPONSE:

FACT NO. 6

Admit that there were one or more piles of soil, stone, and/or other fill materials on the Site from April 22, 2005 to April 27, 2005.

RESPONSE:

FACT NO. 7

Admit that there were one or more piles of soil, stone, and/or other fill materials on the Site on April 27, 2005.

RESPONSE:

FACT NO. 8

Admit that there were one or more piles of soil, stone, and/or other fill materials on the Site from April 27, 2005 to May 5, 2005.

RESPONSE:

FACT NO. 9

Admit that there were one or more piles of soil, stone, and/or other fill materials on the Site on May 5, 2005.

RESPONSE:

FACT NO. 10

Admit that there were one or more piles of soil, stone, and/or other fill materials on the Site from May 5, 2005 to July 28, 2005.

RESPONSE:

FACT NO. 11

Admit that there were one or more piles of soil, stone, and/or other fill materials on the Site on July 28, 2005.

RESPONSE:

FACT NO. 12

Admit that there were one or more piles of soil, stone, and/or other fill materials on the Site from July 28, 2005 to August 5, 2006.

RESPONSE:

FACT NO. 13

Admit that there were one or more piles of soil, stone, and/or other fill materials on the Site on August 5, 2006.

RESPONSE:

FACT NO. 14

Admit that there were one or more piles of soil, stone, and/or other fill materials on the Site from August 5, 2006 to August 30, 2006.

RESPONSE:

FACT NO. 15

Admit that there were one or more piles of soil, stone, and/or other fill materials on the Site on August 30, 2006.

RESPONSE:

FACT NO. 16

Admit that there were one or more piles of soil, stone, and/or other fill materials on the Site from August 30, 2006 to May 11, 2007.

RESPONSE:

FACT NO. 17

Admit that there is a ditch situated immediately to the south of the Site.

RESPONSE:

FACT NO. 18

Admit that there is a ditch situated immediately to the south of the Site through which water flows intermittently.

RESPONSE:

FACT NO. 19

Admit that there is a ditch situated immediately to the south of the Site through which water flows intermittently in the direction of Wonder Lake.

RESPONSE:

FACT NO. 20

Admit that there is a storm ditch on the western edge of the Site.

RESPONSE:

FACT NO. 21

Admit that there is a storm ditch on the western edge of the Site through which water flows intermittently.

RESPONSE:

FACT NO. 22

Admit that there is a storm ditch on the western edge of the Site through which water flows intermittently in the direction of Wonder Lake.

RESPONSE:

FACT NO. 23

Admit that Exhibit A is a genuine copy of a letter sent on July 8, 2005 by Respondent to Beverly Booker of the Illinois EPA.

RESPONSE:

FACT NO. 24

Admit that Exhibit B is a genuine copy of a letter, and the attachments thereto, sent by facsimile machine on December 21, 2005 by Respondent to Jim Day of the Illinois EPA.

RESPONSE:

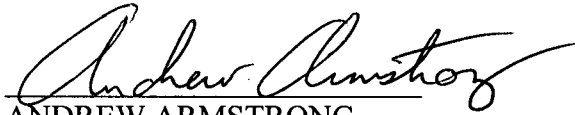
Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
LISA MADIGAN,
Attorney General of the
State of Illinois

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

ROSEMARIE CAZEAU, Chief
Environmental Bureau
Assistant Attorney General

By:



ANDREW ARMSTRONG

Assistant Attorney General

Environmental Bureau

69 West Washington Street, 18th Floor

Chicago, Illinois 60602

(312) 814-0660

EXHIBIT A

RECEIVED
JUL 13 2005
IEPA

T. P. MATHEWS
7314 Hancock Drive
P. O. Box 189
Wonder Lake, IL 60097
Tel: 815-653-2062
Fax: 815-653-2081

July 8, 2005

Org: Records Unit
cc: Beverly Booker
Jeb McGhee
Roger Callaway
Tim Kluge
Des Plaines Region, WPC
Agency reply due 08/10/2005

Ms. Beverly Booker
Illinois EPA
Bureau of Water
CAS #19
P. O. Box 19276
Springfield, IL 62794-9276

Re: Violation Notice W-2005-00313
Facility ID ILU000714 – T. P. Mathews Property

Dear Ms. Booker:

In answer to your letter of June 30, 2005 alleging a violation in regards to the possibility of fill infiltrating an unnamed tributary on the adjoining owner's property south of my property, I wish to advise as follows:

I have owned the subject property since 1958, and have, from time to time, added fill in such a manner and location that would not encroach upon the neighbor's ditch, which is sometimes dry in the summer and frozen in the winter.

In leveling any fill, the equipment will push the fill in a northeasterly direction, which is away from the neighbor's property on the south. I have been careful to maintain an area of foliage consisting of small trees, brush, weeds, and grass between my property and the tributary. It is my belief that this foliage is a sufficient buffer to where a silt fence is not needed.

The fill area slopes down to the north and away from the south property line. Rain and surface water is directed away from the tributary.

The property has been re-graded in the last several weeks, and is scheduled to be finished in the next several days, as the contractor's equipment broke down and needed to be repaired.

Ms. Beverly Booker
Illinois EPA
July 8, 2005

Page 2

I will continue to see that a buffer of foliage is maintained between my property and the property to the south on which the tributary is located.

I might add that I have been the victim of several incidents of this type of harassment during the past two years by some of the local neighbors who oppose my support for annexation of this property into the Village of Wonder Lake. My property allowed the village to go forward in annexing several hundred acres to the east. The subject property is part of the corridor that I made available to the village to proceed with their annexation.

Please advise if you wish to have a formal meeting.

Sincerely,

A handwritten signature in cursive script, appearing to read 'T. Mathews', written in black ink.

Thomas P. Mathews

TPM/psp

cc: Michael S. Garretson, Manager
Jeb McGhee

EXHIBIT B

T. P. Mathews
7314 Hancock Drive
P.O. Box 189
Wonder Lake, IL 60097
Tel: 815 653-2062
Fax: 815 653-2081

FAX TRANSMISSION COVER SHEET

Date: December 21, 2005

To: Jim Day, IEPA

Fax: 217-782-9807

Subject: Notice of Intent to Pursue Legal Action
Violation Notice: W-2005-00313
Facility I.D.: ILU000714-T.P. Mathews Property-McHenry County

From: T. P. Mathews

YOU SHOULD RECEIVE (7) PAGE(S). IF YOU DO NOT RECEIVE ALL OF THE PAGES CLEARLY, PLEASE CALL 815 653-2062.

Dear Mr. Day:

I am sending you this fax as I tried to reach you several days ago, and again last week, and was advised that you were out of the office at the time. Since I don't know if you have the entire file on this matter, I am also attaching the letter I received on August 3, 2005, which rejected my letter of July 8, 2005.

There was no explanation in the August 3rd letter concerning what was required to eliminate the alleged threat of contamination, as there never was a threat of contamination in the first place. Accordingly, I was most interested to know what someone thought was a threat of contamination that would result in a violation.

You will note in my letter of July 8, 2005, that I have owned the property since 1958, and from time to time have added fill to the north of the neighbor's property at a distance and in such a manner that none of the fill would reach the neighbor's property, even in the event of a 100 year or 500 year rain.

Mr. Jim Day
IEPA
December 21, 2005

Page 2

To be certain that none of the fill, which is not contaminated, would wash onto the neighbor's property in any manner whatsoever, I regraded my property and planted grass for a distance of 250 feet along the south boundary at a width of 50 feet.

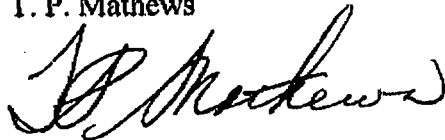
This property is one mile distance from my office, and I drive by it at least twice a day when going to and from my home, which is also one mile from the subject site. In the last 45 years, I have never observed any soil from my property reaching the sometimes dry ditch on the neighbor's 120 acres.

As I mentioned in my letter of July 8, 2005, I have been subject to a certain amount of harassment by three or four neighbors in the area, who were unhappy with my annexation of part of my property into the Village of Wonder Lake. These people have made complaints to local authorities about grass being too tall or weeds growing on my properties. They have even dumped bags of garbage on some of my vacant property, and then called the McHenry County Health Department that I am maintaining a nuisance.

I would like to conclude this matter, and would appreciate knowing of any evidence that would support a violation.

Sincerely,

T. P. Mathews





ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 - (217) 782-3397
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601 - (312) 814-6026

ROD R. BLAGOJEVICH, GOVERNOR

DOUGLAS P. SCOTT, DIRECTOR

(217) 782-5544

November 15, 2005

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7000 1670 0004 1555 8522

Mr. T. P. Mathews
7314 Hancock Drive
Wonder Lake, Illinois 60097

Re: Notice of Intent to Pursue Legal Action
Violation Notice: W-2005-00313
Facility I.D.: ILU000714- T.P. Mathews Property - McHenry County

Dear Mr. Mathews:

This Notice of Intent to Pursue Legal Action is provided pursuant to Section 31(b) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(b)(2002). The Illinois Environmental Protection Agency ("Illinois EPA") is providing this notice because you have failed to adequately respond to a Violation Notice dated June 30, 2005 and issued by the Illinois EPA within the time frame required by Section 31 of the Act.

The Illinois EPA is providing this notice because it may pursue legal action for the violations of environmental statutes, regulations and permits specified in Attachment A. The Notice of Intent to Pursue Legal Action provides the opportunity to schedule a meeting with representatives of the Illinois EPA to attempt to resolve the violations of the Act, regulations and permits specified in Attachment A. If a meeting is requested, it must be held within thirty (30) days of receipt of this notice unless an extension of time is agreed to by the Illinois EPA.

If you wish to schedule a meeting with representatives of the Illinois EPA or have any questions, please contact Jim Day, Assistant Counsel, at (217) 782-5544 within twenty (20) days of your receipt of this notice.

Sincerely,

Connie L. Tonsor
Associate Counsel
Division of Legal Counsel

Attachment

Jim Day
217-782-9807

ATTACHMENT A

Deposition of Contaminants

Violation

Violation

Date
4/22/2005

Description

Unlawful deposit of contaminants upon land that caused or threatened to cause water pollution in Wonder Lake and an unnamed tributary of Wonder Lake in McHenry County.

Rule/Reg.:

Section 12(a), (d) and (f) of the Act, 415 ILCS 5/12(a), (d) and (f) (2004).

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 - (217) 782-3397
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601 - (312) 814-6026

217/782-9720

ROD R. BLAGOJEVICH, GOVERNOR

DOUGLAS P. SCOTT, DIRECTOR

CERTIFIED MAIL # 7004 2510 0001 8647 0384
RETURN RECEIPT REQUESTED

August 3, 2005

Mr. Thomas P. Mathews
7314 Hancock Drive
P.O. Box 189
Wonder Lake, IL 60097

Re: Compliance Commitment Rejection, Violation Notice W-2005-00313
Facility ID: ILU000714 - T.P. Mathews Property

Dear Mr. Mathews:

The Illinois Environmental Protection Agency ("Illinois EPA") rejects the Compliance Commitment Agreement ("CCA") dated July 8, 2005 proposed by T. P. Mathews Property regarding the Violation Notice dated June 30, 2005.

The proposed CCA is rejected because the proposed CCA does not eliminate the threat of contamination to Waters of the State from T. P. Mathews Property.

Because the violations remain the subject of disagreement between the Illinois EPA and T. P. Mathews Property, this matter will be considered for referral to the Office of the Attorney General, the State's Attorney, or the United States Environmental Protection Agency for formal enforcement action and the imposition of penalties.

Questions regarding this matter should be directed to Jeb McGhee at 217/782-9720. Written communications should be directed to Beverly Booker at Illinois Environmental Protection Agency, Bureau of Water, CAS #19, P.O. Box 19276, Springfield, IL 62794-9276, and all communications shall include reference to your Violation Notice Number W-2005-00313.

Sincerely,

Michael S. Garretson, Manager
Compliance Assurance Section
Bureau of Water

File # 847-294-403

T. P. MATHEWS
7314 Hancock Drive
P. O. Box 189
Wonder Lake, IL 60097
Tel: 815-653-2062
Fax: 815-653-2081

July 8, 2005

Ms. Beverly Booker
Illinois EPA
Bureau of Water
CAS #19
P. O. Box 19276
Springfield, IL 62794-9276

Re: Violation Notice W-2005-00313
Facility ID ILU000714 – T. P. Mathews Property

Dear Ms. Booker:

In answer to your letter of June 30, 2005 alleging a violation in regards to the possibility of fill infiltrating an unnamed tributary on the adjoining owner's property south of my property, I wish to advise as follows:

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Ms. Beverly Booker
Illinois EPA
July 8, 2005

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Please advise if you wish to have a formal meeting.

Sincerely,



Thomas P. Mathews

TPM/psp

cc: Michael S. Garretson, Manager
Jeb McGhee

CERTIFICATE OF SERVICE

I, ANDREW ARMSTRONG, an Assistant Attorney General, do certify that I caused to be served this 15th day of January, 2008, the foregoing Notice of Filing and First Request for Admission of Facts and Genuineness of Documents upon the persons listed on said Notice of Filing by placing true and correct copies of each in an envelope, first class postage prepaid, and depositing same with the United States Postal Service at 69 West Washington Street, Chicago, Illinois, at or before the hour of 5:00 p.m.


ANDREW ARMSTRONG