

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 Set of Interrogatories, 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.)	No. 07-133
)	(Enforcement-Water)
THOMAS P. MATHEWS, an individual,)	
)	
Respondent.)	

COMPLAINANT'S FIRST SET OF INTERROGATORIES
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 101.620 of the Illinois Pollution Control Board's Procedural Regulations, 35 Ill. Adm. Code 101.616 and 101.620, and Illinois Supreme Court Rule 213, requests that Respondent, THOMAS P. MATHEWS, answer in writing, under oath, within twenty-eight (28) days after the service of this request, the following interrogatories:

I. INSTRUCTIONS

1. Respondent, Thomas P. Mathews ("Respondent") is required, in answering these interrogatories to furnish all information available to Respondent or his employees, agents, contractors, experts, or consultants, or which is ascertainable by reasonable inquiry, whether or not the requested information might be available from another entity.

2. If an interrogatory has subparts, Respondent is required to answer each part separately and in full.

Electronic Filing - Received, Clerk's Office, January 15, 2008

3. If Respondent cannot answer an interrogatory in full, he is required to answer all parts of the interrogatory to the extent possible and specify the reason for his inability to provide additional information.

4. As to each interrogatory, or portion thereof, Respondent shall identify in the answer every oral communication, document, or writing which relates to the interrogatory or response, whether or not such identification is specifically requested by the interrogatory.

5. In answering each interrogatory, Respondent shall identify each document, person, communication, or meeting which relates to, corroborates, or in any way forms the basis for the answer given.

6. Pursuant to Supreme Court Rule 213(e), Respondent is requested to serve upon Complainant, in corrected, supplemented, or augmented answers hereto, documents or other forms of information from whatever source which arguably tend to show that Respondent's prior answers are, might be, were or might have been in a sense incorrect, incomplete, potentially misleading, or less than fully responsive or truthful.

7. If dates are requested, the exact date should be given if possible. However, if the exact date cannot be determined due to absence or inadequacy of records, the best estimate should be given to the interrogatory and labeled as such.

8. In construing these interrogatories:

- a. the singular shall include the plural and the plural shall include the singular; and
- b. a masculine, feminine or neuter pronoun shall not exclude the other genders.

9. If Respondent encounters any ambiguity in construing any interrogatory or any definition or instruction pertaining to any interrogatory, he shall set forth the matter deemed "ambiguous" and the construction chosen or used in responding to the interrogatory.

10. Unless otherwise stated, all Interrogatories refer to the time period from January 1, 2005 to the present.

11. If Respondent answers an interrogatory by producing documents as authorized by Illinois Supreme Court Rule 213(e), Respondent shall make the requested documents available for inspection and copying at the Office of the Illinois Attorney General, Environmental Bureau, 69 West Washington Street, 18th Floor, Chicago, Illinois.

12. This discovery is deemed continuing, necessitating supplemental answers from Respondent, or anyone acting on its behalf, when or if it obtains additional information which supplements or alters the answers now provided.

II. CLAIMS OF PRIVILEGE

1. With respect to any interrogatory which Respondent refuses to answer on a claim of privilege, Respondent shall provide a statement signed by an attorney representing Respondent setting forth for each such assertion of privilege:

- a. the name and job title of every person involved in the conversation or communication;
- b. the nature of the information disclosed;
- c. all facts relied upon in support of the claim of privilege;
- d. all documents related to the claim of privilege;
- e. all events, transactions, or occurrences related to the claim of privilege;

- f. the statute, rule, or decision which is claimed to give rise to the privilege or the reason for its unavailability.
2. If the objection relates to only part of an interrogatory, the balance of the interrogatory should be answered in full.

III. DEFINITIONS

1. "Communication" shall mean, without limitation, any and all forms of transferring information, including discussions, conversations, meetings, conferences, interviews, negotiations, agreements, understandings, inquiries, correspondence, documents, or other transfers of information whether written or oral or by any other means, and includes any document which abstracts, digests, transcribes or records any communication.
2. "Complainant" shall mean the Complainant listed in the Complaint, the State of Illinois, and any of its agents, representatives, or persons who acted as Complainant's representative.
3. "Complaint" shall mean the Complaint filed on June 8, 2007 in People v. Mathews (07-PCB-133).
4. "Document" shall be construed in its customary broad sense in accordance with Supreme Court Rules 213(e) and 214 and shall include, but is not limited to, the original and any non-identical copy, whether different from the original because of notes made on said copy or otherwise, or any agreement bank record or statement; book of account, including any ledges, sub-ledger, journal, or sub-journal; brochure; calendar; chart; check; circular; communication (intra- or inter-company or governmental entity or agency or agencies); contract; copy;

Electronic Filing - Received, Clerk's Office, January 15, 2008

correspondence; diary; draft of any document; graph; index; instruction; instruction manual or sheet; invoice job requisition; letter; license; manifest; manual; memorandum; minutes; newspaper or other clipping; note; note book; opinion; pamphlet, paper; periodical or other publication; photograph; print; receipt; record; recording report; statement; study; summary including any memorandum, minutes, note record, or summary of any (a) telephone, videophone or intercom conversation or message, (b) personal conversation or interview, or (c) meeting or conference; telegram; telephone log; travel or expense record; voucher; worksheet or working paper; writing; any other handwritten, printed, reproduced, recorded, typewritten, or otherwise produced graphic material from which the information inquired of may be obtained, or any other documentary material of any nature, in the possession, custody or control of Respondent.

5. "Identification" or "identity" shall mean:

a. As to an individual, stating his or her:

- i. full and customarily used names;
- ii. present business, residence addresses, and applicable phone numbers;
- iii. business or profession during the relevant time period;
- iv. every office, title or position held during the relevant time period; and
- v. every employer during the relevant time period.

b. As to any person other than an individual, stating:

- i. its legal name and any other name used by it;
- ii. the form or manner of its organization (e.g. partnership, corporation, etc.); and

- iii. the state of its incorporation (if it is incorporated) and the address of its principal place of business.
 - c. As to a document, stating:
 - i. the date of its creation, execution, and receipt;
 - ii. its author or signatory;
 - iii. its addresses and any other recipient;
 - iv. its type or nature (e.g., letter, memorandum, etc.);
 - v. the identity of the custodian;
 - vi. the identity of the document; and
 - vii. the present location of the document.
 - d. As to any communication, event, incident, conversation, transaction or occurrence, stating:
 - i. the date;
 - ii. the place where it took place and the manner of its occurrence;
 - iii. identification of all the participants;
 - iv. its purpose and subject matter; and
 - v. a description of what transpired.
6. "Illinois EPA" shall mean the Illinois Environmental Protection Agency.
7. "Knowledge" shall mean first hand information and/or information derived from any other source, including hearsay.
8. "MCSWCD" shall mean the McHenry County Soil and Water Conservation District.

Electronic Filing - Received, Clerk's Office, January 15, 2008

9. The terms “or” and “and” in these Interrogatories shall be construed either disjunctively or conjunctively so as to elicit any facts or information which might otherwise be construed as outside its scope.

10. “Person” shall include, but is not limited to, any natural person; business or corporation, whether for profit or not; firm, partnership, or other non-corporate business organization; charitable, religious, education, governmental, or other non-profit institution, foundation, body, or other organization; or employee, agent, or representative of any of the foregoing.

11. “Present” shall mean as of the filing date of these Interrogatories.

12. “Related to” or “relating to” shall mean anything which, directly or indirectly, concerns, consists of, pertains to, reflects, evidences, describes, sets forth, constitutes, contains, shows, underlies, supports, refers to in any way, is or was used in the preparation of, is appended to, is legally, logically, or factually connected with, proves, disproves, or tends to prove or disprove.

13. “Respondent” shall mean Thomas P. Mathews and any of Respondent’s employees, agents, representatives, successors, or assigns, or any other person acting or believed by Respondent to have acted on his behalf.

14. “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.

INTERROGATORIES

INTERROGATORY NO. 1

Please identify for each interrogatory:

- a. The individual(s) answering these interrogatories on behalf of Respondent, including his or her relationship to Respondent, and how long he or she has been associated with Respondent.
- b. Each person who provided information or who otherwise consulted, participated, or assisted in connection with providing answers to these interrogatories, the nature of any such consultation or assistance, whether the information was based on personal knowledge, and, if not on the basis of personal knowledge, on what basis it was provided.

ANSWER:

INTERROGATORY NO. 2

Describe in detail each contiguous parcel of property owned by Respondent at the intersection of Westmoor Drive and East Oakwood Drive in Wonder Lake, McHenry County, Illinois, including the address, legal description, and PIN number for each parcel.

ANSWER:

INTERROGATORY NO. 3

- a. Describe every watercourse—including, but not limited to, any ditches—through which water flows either permanently or intermittently, and that lies either on or within twenty (20) yards distance from the Site, including for each watercourse its location and directional flow.
- b. Describe every incident during which Respondent deposited, or allowed to be deposited, soil and/or stone on the Site, including for each incident the distance of the deposited soil and/or stone from any watercourse referred to in subsection (a), *supra*, the identity of each person who deposited soil and/or stone, the date on which such deposit occurred, and the amount of soil and/or stone deposited.

- c. Identify each date during which a pile of soil and/or stone was present on the Site, including for each date the distance of each pile of soil and/or stone from any watercourse referred to in subsection (a), *supra*, and the location and approximate height of each such pile of soil and/or stone.

ANSWER:

INTERROGATORY NO. 4

Describe each incident during which any piles of soil and/or stone on the Site were graded, including for each incident whether such grading involved any amount of soil and/or stone that either began or ended the incident within twenty (20) yards of any of the watercourses referred to in Interrogatory #3(a), *supra*, the identity of each person who performed the grading, the date on which the grading was performed, the method used to grade the piles, the location on the Site of the piles that were graded, the end location of soil and/or stone graded from the piles, and the reason that Respondent graded, or caused the grading of, the piles.

ANSWER:

INTERROGATORY NO. 5

Describe in detail each incident during which Respondent installed any physical measure intended to prevent soil, stone, and/or silt-laden stormwater from falling into any watercourse referred to in Interrogatory #3(a), including but not limited to silt fencing and vegetation, including for each incident the identity of each person who installed the physical measure, the date(s) on which the measure was installed, the location of the measure, and the reason that Respondent installed, or caused the installation of, the measure.

ANSWER:

INTERROGATORY NO. 6

Identify any communication between Respondent and any third party, including, but not limited to, the Illinois EPA, the United States Army Corps of Engineers, the MCSWCD, the McHenry County Planning and Development Department, and the Village of Lake Wonder, relating to the entry, or potential entry, of any soil, stone, and/or silt-laden stormwater from the Site into any watercourse referred to in Interrogatory #3(a), *supra*.

ANSWER:

INTERROGATORY NO. 7

Identify any communication relating to any concerns expressed and/or complaints made by any person concerning the entry, or potential entry, of any soil, stone, and/or silt-laden stormwater from the Site into any watercourse.

ANSWER:

INTERROGATORY NO. 8

Describe the condition of the areas of the Site within twenty (20) yards of any watercourse referred to in Interrogatory #3(a) on April 22, 2005, including in the description the number and location of any piles of soil and/or stone and the most recent date on which the areas of the Site within twenty (20) yards of any watercourse referred to in Interrogatory #3(a) had been graded.

ANSWER:

INTERROGATORY NO. 9

Describe the condition of the areas of the Site within twenty (20) yards of any watercourse referred to in Interrogatory #3(a) on April 27, 2005, including in the description the number and location of any piles of soil and/or stone and the most recent date on which the areas of the Site within twenty (20) yards of any watercourse referred to in Interrogatory #3(a) had been graded.

ANSWER:

INTERROGATORY NO. 10

Describe the condition of the areas of the Site within twenty (20) yards of any watercourse referred to in Interrogatory #3(a) on May 5, 2005, including in the description the number and location of any piles of soil and/or stone and the most recent date on which the areas of the Site within twenty (20) yards of any watercourse referred to in Interrogatory #3(a) had been graded.

ANSWER:

INTERROGATORY NO. 11

Describe the condition of the areas of the Site within twenty yards (20) of any watercourse referred to in Interrogatory #3(a) on July 28, 2005, including in the description the number and location of any piles of soil and/or stone and the most recent date on which the areas of the Site within twenty yards (20) of any watercourse referred to in Interrogatory #3(a) had been graded.

ANSWER:

INTERROGATORY NO. 12

Describe the condition of the areas of the Site within twenty (20) yards of any watercourse referred to in Interrogatory #3(a) on August 5, 2005, including in the description the number and location of any piles of soil and/or stone and the most recent date on which the areas of the Site within twenty (20) yards of any watercourse referred to in Interrogatory #3(a) had been graded.

ANSWER:

INTERROGATORY NO. 13

Describe the condition of the areas of the Site within twenty (20) yards of any watercourse referred to in Interrogatory #3(a) on August 30, 2006, including in the description the number and location of any piles of soil and/or stone and the most recent date on which the areas of the Site within twenty (20) yards of any watercourse referred to in Interrogatory #3(a) had been graded.

ANSWER:

INTERROGATORY NO. 14

Describe the condition of the areas of the Site within twenty (20) yards of any watercourse referred to in Interrogatory #3(a) on May 11, 2007, including in the description the number and location of any piles of soil and/or stone and the most recent date on which the areas of the Site within twenty (20) yards of any watercourse referred to in Interrogatory #3(a) had been graded.

ANSWER:

INTERROGATORY NO. 15

If Respondent believes that no soil, stone, and/or silt-laden storm water from the Site ever fell into any watercourse referred to in Interrogatory #3(a), describe in detail the factual basis for Respondent's belief.

ANSWER:

INTERROGATORY NO. 16

- a. Identify each person having knowledge of any of the facts alleged in the Complaint. Include any and all persons that Respondent intends to call as witnesses at a trial, and, for each witness, describe the witness's relationship, if any, to Respondent, and the subjects on which the witness will testify.
- b. Identify any and all persons that Respondent intends to call as expert witnesses at the trial, and, for each expert witness, identify the subjects on which the witness will testify and the opinions Respondent expects to elicit.

ANSWER:

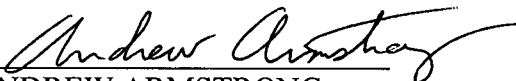
Respectfully submitted,

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

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 Set of Interrogatories 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