

d r r g / m a

**State of Illinois
Pollution Control Board
James R Thompson Center
100 W Randolph Street Suite 11-500**

RECEIVED
CLERK'S OFFICE
MAR 12 2009
STATE OF ILLINOIS
Pollution Control Board

In The Matter of

Jerrald R West II

Complainant[s] -vs-

PCB 2009- 45

Nokomis Quarry Company
P.O. Box #90
Nokomis, IL 62075
AKA: P.O. Box #500244
St Louis, MO. 63150-0244

Respondent[s]

ORIGINAL

**Plaintiffs Answer to Respondents Motion to Dismiss formal
Complaint filed by Jerrald R West II**

NOW COMES JERRALD R WEST II, An Individual, serving as his own counsel in support of denying Nokomis Quarry Companies Motion for dismissal, Now states the following.

Answer To Introduction

Please note: This Plaintiffs Formal Complaint, page#5, numbered line 12. The Prompt for signature is not followed by a prompt for a date. This Plaintiff has simply completed the form as provided. As well in reference to this Plaintiffs lack of completed "certification" Page #5, Center page, under title "Certification" clearly states in Parenthesis {Optional but Encouraged}. This Plaintiff has deliberately chosen not to complete the "Optional" Certification simply because it was presented as Optional to do so. This

plaintiff has found no Prompt for any date in completion of the "Provided complaint form".

Therefore; the Respondent's attorney is pointing out a flaw in the State provided form not this plaintiffs case. This Plaintiff has no problem with the date of January 14, 2009. as acknowledged in the Respondents own motion to dismiss.

This Plaintiff has as well requested Mr. Costa to return the provided "Respondents Copy" Which he Acknowledges receiving but has not yet sent back as of February, 13th, 2009 so this plaintiff can mail it to the Respondent. This Plaintiff has chosen to send the Respondent the "original" Respondents copy. Not "A copy". Therefore, eliminating any possible future accusations of the transposing of documents for inappropriate purposes.

Some history between this Plaintiff and the Respondents attorney should be stated. Note: the February 21, 2008 hearing transcript will reflect that judge McGuire made a statement to both parties. To this Plaintiff he stated "Just because you can should you?" Furthermore this Plaintiff witnessed judge McGuire ask the respondent's attorney "Why wouldn't he have a cause of action?" These questions lead this plaintiff to believe his filing was adequate, specific, but perhaps not wise for whatever reason?

Judge Mcguires questions "after meditation" caused this plaintiff to narrow the attack with a third filing march 10, 2008 and subsequent hearing April 22, 2008. At which time judge McGuire again dismissed the filing without prejudice and simply stated he probably wasn't going to be the Judge for any future hearing in this matter. The Board may as well want to keep in mind when ruling that my uncle Billy {Blue Eyes} West a Mining College Graduate had just died on March 3, 2008 Suddenly! This Eliminated a very credible and historically informed potential witness. To date 2/13/09 no Autopsy results have been provided to the widow or family even though an autopsy was conducted at the time of his death.

The FBI for Christ sake won't even return this Plaintiffs calls and neither has Fitzgeralds team. I am currently living in a partially completed 14' by 60' with my blameless chronically IL wife and children on \$1,200 a month. This is quickly turning into a situation which other potential witnesses may be in danger including my own family. Keep in mind affidavit's witnessing sample collection were made and many independent observations sought. Identities of individuals involved are at this time protected.

Please note exhibit C of the Respondents own motion to dismiss with specific attention to Evidence Submission and Extended exhibit list reflecting video, Pictures, and samples easily supported by affidavit.

This Plaintiff is really praying that someone with authority to grant relief steps in soon. If left void of hope and resources my only consolation shall be the realization I'm not alone in my despair.

I tried to contact the FBI regarding information I possess including possible "Perjury". Related to the Amount of rock sold to the City of Witt, and the removal of public record originals from Witt city custody.

Discovery relating to Nokomis quarry companies Sharing of scales and equipment needs to be done, and the extent of the intermingling of business with Hanson Material Service and other AG issues relating to chemical compounds.

Page #2, Line #18 of the Nokomis quarry Companies motion to dismiss Clearly states the Quarry is in the business of manufacturing "State Inspected Limestone. Yet page #3, Line#6 states the product specifically Purchased by the City of Witt was inspected by an independent Consultant, NOT THE STATE as contended on page #2.

Answer to Motion to Dismiss

1. The Respondent refers to section 31 {d} {1} of the Environmental Protection act on page #3 beginning on line #16 of the Motion to dismiss. Yet page #120 of this Plaintiffs Copy of the Act has only section 31 {d}. Subheading {d} 1 Does not exist. The Attorney General is the entity which finally referred me to the control Board and the Montgomery County states attorney does not handle Environmental situations such as present to them. Therefore, Nokomis Quarries Attorney is pursuing an Irrelevant and none existant reference.
2. This plaintiffs answer to Question #9 of the State provided form Prompted me to describe the relief sought not draw into question the Boards Authority. Next, there are many ways to state a cause of Action such as Exhibit C of the Respondents own motion to dismiss

which "CLEARLY" reflects a "specific" Cause of action. This is really quite simple. If this Plaintiff went in his Neighbors Yard and started to choke ones neighbor til he was blue and unconscious from lack of oxygen would I and shouldn't I go to Jail and be forced to pay any damages my niehbor incurs. Such as loss of wages, healthcare cost, Pain and suffering etc... Furthermore Il Adm Code 202.101 "Definitions" does not appear to contain the definition for "cause of action". At least this Plaintiffs copy provided by the Board shows no definition for cause of action.

3. Void of facts?, Factually Deficient?. Please refer again to exhibit C of Nokomis quarry companies motion to dismiss. Fact is Lime appears and is reported to be in part the remains of ancient shell creatures Rich in calcium Carbonate which may contain dormant ancient bacteria which should never be left airborne and fugitive for any reason.
4. Have no doubt this case is the same case as 07-L-25 and Judge Eders did dismiss With Prejudice after judge Mcguire Dismissed 3 prior times Without Prejudice. As well the Attorney Generals office was contacted and this Plaintiff received a Letter Dated 2/27/2008 which stated in some instances AG staff members will attempt to mediate the dispute. Subsequently I received another letter dated 4/9/2008 from Thomas Davis, Chief of the Environmental Bureau Outlining the Pollution Control process. Almost immediately I again contacted the Ag office and spoke with a Jennifer Ginter 217-782-9016. She advised this Plaintiff at this time the Attorney General can't get involved in private litigation and informed this Plaintiff the case must be dismissed before the AG can get involved.

In the definition of duplicative it states "before the Board or another forum". This again simply points out a flawed definition based on the broadness of the term "Another Forum". Based on the broadness of the term I could have gone in front of the Ladies Auxillary or The Montgomery County Court and if dismissed with Prejudice I now have no right to be heard even though I was never allowed to even give a presentation before the court. Or even have evidence viewed.

5. "None is accurate", Same case which was dismissed and refiled with an Educated Pollution control Board better suited to judge the facts of this case. Thus insuring the individuals right to remedy under the Constitution.

6. Please note I have not “just talked about the situation” I provided video and Picture evidence to the Respondents attorney and submitted receipts provided by the City of Witt to the Respondent under oath. I will again describe the relief I am seeking. 6 Million Dollars for Damages incurred both Economic and none economic. I was set to inherit my fathers Furniture business but declined do to exhaustive countermeasures needed to maintain a healthy working environment and Breathing problems associated with exposure to what is certainly Weaponized Lime based product produced without real containment pulverized with a Particle size less than 10 Micrometers and Noteable Government protection to do so.

WHEREFORE, This Plaintiff now asks the Board in its educated wisdom to Deny Nokomis Quarry Companies Motion to Dismiss and Assign a hearing officer. Please find attached an Affidavit {Exhibit A} Which reflects Real damages, Sample collection “witnessed by me”, and the existence of other witnesses who’s identities are currently being protected by this Plaintiff in light of the Plaintiffs uncles suspicious death. These individuals initially prepared affidavits which will need to be updated if they will still cooperate.

Sincerely

Jerrald R West II

By: 
Date 3/4/09

State of Illinois
Pollution Control Board
James R Thompson Center
100 W Randolph st. Suite 11-500

EX A.

RECEIVED
CLERK'S OFFICE

MAR 12 2009

STATE OF ILLINOIS
Pollution Control Board

AFFIDAVIT

State of Illinois

Before me the undersigned Notary Teresa Haston {Name}
On this 4th day of March {Month} 2009 {yr} Personally
appeared Jerald R. West II {name of Affiant}
Known to me to be a credible person and of lawful age, who being by me
first duly sworn, on his {His/her} Oath Deposes and says:

AFFIANT FACT STATEMENT

The Prior proceedings Dismissed by
Judge Eders Found in Nokomis Quarry
Companies Motion To Dismiss are all
True, Accurate, and Deliberate. As well
Samples have been collected and systemic
Analysis of the Limestone Industry in
general has been completed. My presentation
if allowed will take approx 1.5 hours.
The Family Business I was set to inherit
is now closed due to exhaustive counter measures.

Signature of Affiant

Printed Name

Jerrald R West II

AFFIANT ADDRESS

765 Wash Roberts Rd
Memphis TN 37110

Subscribed to and sworn to before me, this 4th {Day}

of MARCH {Month} 2009 {YEAR}

{NOTARY SEAL} Signature of Notary

Teresa Haston

Printed Name TERESA HASTON

Commission Expires 11/26/09



State of Illinois
Pollution Control Board
James R Thompson
100 W Randolph street Suite 11-500

RECEIVED
CLERK'S OFFICE
MAR 12 2009
STATE OF ILLINOIS
Pollution Control Board

In the Matter of: }
Jerrald R West II }
Complaintant{s} -vs- }
Nokomis Quarry Company } PCB 2009-45
P.O. box #90 }
Nokomis, IL 62075 }
AKA P,O, Box #500244 }
St Louis, MO. 63150 }
Respondent{s} }

ORIGINAL

Entry of Appearance

NOW COMES Jerrald R West II, Representing Himself, and hereby entering his appearance on behalf of Himself in the above entitled cause

By: Jerrald R West II

Signature 
3/4/09

Certificate of service

RECEIVED
CLERK'S OFFICE
MAR 12 2009
STATE OF ILLINOIS
Pollution Control Board

The undersigned hereby certifies that on the ____ day of February, 2009 he served a copy of the foregoing entry of appearance by depositing the same in the United states post office box enclosed in an envelope with postage fully prepaid upon the following.

Nokomis Quarry company
P.O. Box#90
Nokomis, Il. 62075
AKA P.O. Box #500244
St Louis, MO 63150-0244

Pollution Control Board Attn: Clerk
100 West Randolph Street
James R Thompson Center, Suite 11-500
Chicago, IL 60601-3218

Signed _____

Jerrald R West II
765 Wash Roberts Road
McMinnville, Tn. 37110
Ph: 931-668-7367

ORIGINAL

original returned to sender
copy

Attention
Clerk only

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to: Mr. Costa
Samuel L. Miller, Jackson
225 N. Water St. Ste 301
P.O. Box 1400
Decatur, Ga. 30055-
1400

2. Article Number
 (Transfer from service label) 7008 2810 0002 2863 6214
 PS Form 3811, February 2004 Domestic Return Receipt

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
Pat McQueen Addressee

B. Received by (Printed Name) C. Date of Delivery
PAT McQUEEN

D. Is delivery address different from item 1? Yes
 No

3. Service Type
 Certified Mail
 Registered
 Insured Mail
 Express Mail
 Return Receipt for Merchandise
 S.O.D. USPS

4. Restricted Delivery? (Extra Fee) Yes
 No

DECATUR, GA 30055
 FEB 23 2009

102595-02-M-1540

RECEIVED
CLERK'S OFFICE

MAR 12 2009

STATE OF ILLINOIS
Pollution Control Board

2972 8982 2000 0182 8002

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)
 For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$ 1.57
Certified Fee	2.70
Return Receipt Fee (Endorsement Required)	2.00
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 6.27

Postmark Here
 MAR 04 2009
 MC MINNIVILLE, OH

Sent to
 ADAMS QUARTY DATA
 Street, Apt. No.
 or PO Box No.
 City, State, Zip

ADAMS, IL 62015

PS Form 3800, August 2006 See Reverse for Instructions

For clerk
only

Return Receipt
will follow



