

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
by LISA MADIGAN, Attorney General)	
of the State of Illinois)	
Complainant,)	
)	No.
v.)	
)	
INVERSE INVESTMENT L.L.C.,)	
An Illinois limited liability company,)	
)	
Respondent.)	

NOTICE OF ELECTRONIC FILING

TO: SEE ATTACHED SERVICE LIST

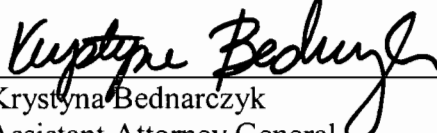
PLEASE TAKE NOTICE that today, May 4, 2011, I have filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the following Complaint a true and correct copy of which is attached and hereby served upon you.

Pursuant to 35 Ill. Adm. Code 103.204(f), I am required to state that failure to file an answer to this Complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the 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.

NOTIFICATION

YOU ARE HEREBY NOTIFIED that financing may be available through the Illinois Environmental Facilities Financing Act (20 ILCS 3515/1 *et seq.*) to correct the alleged pollution.

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

BY: 

Krystyna Bednarczyk
Assistant Attorney General
Environmental Bureau
69 W. Washington St., Suite 1800
Chicago, Illinois 60602
(312) 814-1511

Date: May 4, 2011

THIS FILING IS SUBMITTED ON RECYCLED PAPER

SERVICE LIST

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PEOPLE OF THE STATE OF ILLINOIS,)	
by LISA MADIGAN, Attorney)	
General of the State Illinois,)	
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an Illinois limited liability company,)	
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COMPLAINT FOR INJUNCTION AND CIVIL PENALTIES

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of the Respondent, Inverse Investments, L.L.C., an Illinois limited liability company, as follows:

COUNT I

WATER POLLUTION

1. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, the 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 Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2010) against Respondent INVERSE INVESTMENTS L.L.C.

2. The Illinois EPA is an administrative agency of the State of Illinois created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2010), and charged, inter alia, with the duty of enforcing the Act.

3. From at least August 4, 2003, to the date of filing of this Complaint, RESPONDENT INVERSE INVESTMENTS, L.L.C., (“Inverse”) has owned, and continues to own, the property located at 3004 West Route 120 (Elm Street), McHenry, Illinois (“Site”). Richard A. Adams II (“Adams”) is the manager of Inverse.

4. The Site is approximately 0.3 acre in size. It is located at the northwest corner of Route 120 and Lake Ave., in a mixed-use commercial, residential, and recreational area. Private and non-community potable water wells are located within the general area of the Site. The Site is bordered to the north by a VFW Park, to the south by West Route 120 (Elm Street), to the west by commercial properties and to the east by Lake Avenue. Residential properties are located approximately 500 feet from the Site. The Fox River is approximately 1100 feet southwest of the Site.

5. The Site is improved with a single story building, a septic tank, and a parking lot composed of asphaltic materials that cover almost the entirety of the Site.

6. From some date on or after 1960 but on or before 1970, at times better known to Respondent, the Site was operated as an automotive repair shop, which utilized a hydraulic lift and hydraulic oil reservoir within a concrete vault at the Site.

7. From 1970 through 1977, the Site was leased to Gem Cleaners, a dry cleaning operation.

8. At times better known to Respondent, the Site also operated as a tire shop.

9. Historic use of dry cleaning solvents at the Site has resulted in the contamination of soil and groundwater with chlorinated volatile organic compounds (“VOCs”).

10. Chlorinated VOCs are commonly associated with dry cleaning operations as well as with metal degreasing activities, such as in automotive repair shops.

11. Tetrachloroethylene, also known as perchloroethylene (“PCE”), trichloroethylene (“TCE”), cis-1,2-dichloroethylene (“DCE”) and vinyl chloride (“VC”) are all Chlorinated VOCs. PCE, TCE, and DCE degrade chemically over time into VC, which can dissolve in water and migrate to groundwater.

12. VC is recognized by the United States Department of Health and Human Services, the United States Environmental Protection Agency, and the International Agency for Research on Cancer as a known human carcinogen. Short term exposure to high levels of VC can cause damage to the nervous system. Long term exposure can cause cancer and may damage the liver.

13. From at least August 4, 2003, and continuing to the date of filing of this Complaint, the exact dates better known to Respondent, chlorinated VOCs were and continue to be present in soils at the Site.

14. During the period it has owned the Site, Inverse has engaged environmental consultants to investigate the Site.

15. On November 16, 2005, Inverse collected soil samples from six different locations at various depths at the Site. Analytical testing of the soil samples revealed the following Chlorinated VOCs present in the soils:

	Sample Location	Collection Date	Constituent Concentration (1 mg/kg = mg/L = 1ppm = 0.001 ppb)
PCE	BH-16	11/16/2005	560 mg/kg
	BH-17	11/16/2005	350 mg/kg
TCE	BH-16	11/16/2005	24 mg/kg
	BH-17	11/16/2005	11 mg/kg
DCE	BH-17	11/16/2005	2.4 mg/kg
	BH-19	11/16/2005	3.7 mg/kg

16. From at least August 4, 2003, and continuing to the date of filing of this Complaint, chlorinated VOCs were present in the groundwater at the Site.

17. Pursuant to the authority granted in Section 8(a) of the Illinois Groundwater Protection Act, 415 ILCS 55/8(a) (2010), the Illinois Pollution Control Board ("Board") has promulgated rules and regulations to establish comprehensive water quality standards which are specifically for the protection of groundwater and which are codified as 35 Ill. Adm. Code 620: GROUNDWATER QUALITY STANDARDS ("Groundwater Quality Regulations").

18. Class I groundwater is defined in Section 620.210(a) of the Board Groundwater Quality Regulations, 35 Ill. Adm. Code 620.210(a), as follows:

- a) Groundwater located 10 feet or more below the land surface and within:
 - 1) The minimum setback zone of a well which serves as a potable water supply and to the bottom of such well;

19. The groundwater underlying the Site is within the minimum setback zone of a number of private and non-community potable water wells, and is a "Class I Groundwater" as that term is defined in Section 620.210(a) of the Board Groundwater Quality Regulations, 35 Ill. Adm. Code 620.210(a).

20. Section 620.410(b) of the Board Groundwater Quality Regulations, 35 Ill. Adm. Code 620.410(b) ; provides as follows:

Organic Chemical Constituents

Except due to natural causes or as provided in Section 620.450 or subsection (c), concentrations of the following organic chemical constituents shall not be exceeded in Class I groundwater:

<u>Constituent</u>	<u>Standard</u> (mg/L)
cis-1,2-Dichloroethylene ("DCE")	0.07
Tetrachloroethylene* ("PCE")	0.005

Trichloroethylene* ("TCE") 0.005
 Vinyl Chloride* ("VC") 0.002

*Denotes a carcinogen.

21. On January 19, 2006, Inverse collected samples of groundwater from seven monitoring wells located on the Site. Analytical testing of the samples revealed the highest concentrations of DCE, PCE, TCE, and VC to be as follows:

Constituent	Sample Location	Collection Date	Constituent Concentration	Class I Groundwater Standards (1 mg/L = 1ppm = 0.001 ppb)
PCE	Site, MW-5	01/19/2006	15ppm	0.005 ppm
TCE	Site, MW-5	01/19/2006	2.6 ppm	0.005ppm
DCE	Site, MW-4	01/19/2006	8.0 ppm	0.07ppm
VC	Site, MW-4	01/19/2006	3.4ppm	0.002ppm

22. In August 2009 and November 2009, Inverse sampled the seven monitoring wells at the Site. Analytical testing of the August 2009 and November 2009 samples revealed the following:

Constituent	Sample Location	Collection Date	Constituent Concentration (1 mg/L = 1ppm = 0.001 ppb)	Class I Groundwater Standards
PCE	Site, MW-3	08/06/09	5.7ppm	0.005 ppm
		11/19/09	6.6ppm	
TCE	Site, MW-3	08/06/09	1.6ppm	0.005ppm
		11/19/09	1.6ppm	
DCE	Site, MW-5	08/06/09	15ppm	0.07ppm
	Site, MW-4	11/19/09	14ppm	
VC	Site, MW-5	08/06/09	13ppm	0.002ppm
	Site, MW-4	11/19/09	9ppm	

23. In 2005, 2007 and 2008, the McHenry County Department of Public Health collected water samples from area potable water supply wells in proximity of the Site. Analytical testing of the samples revealed the presence of various chlorinated VOCs associated with dry-cleaning operations. The concentrations of these chlorinated VOCs in several potable water

supply wells located south and west of the Site exceeded the Class I Groundwater Quality

Standards established by the Board, as follows:

Sample Location	Collection Date	Constituent Concentration (in ppb): (1 mg/L = 1ppm = 0.001 ppb)			
		PCE	TCE	DCE	VC
Don's Dairy 3102 Route 120	01/10/07	ND	ND	ND	1.03
	01/30/07	ND	ND	ND	0.71
Private residence 1109 River Rd.	12/05/07	ND	ND	ND	1.83
Private residence 1107 River Rd.	12/05/07	ND	ND	ND	0.53
Private residence 1106 River Rd.	05/29/08	ND	ND	ND	3.59
Sunrise Groceries & Tackle 3020 Route 120	05/29/08	ND	ND	ND	0.68
Private Residence 1204 River Rd.	02/15/2007	ND	ND	ND	3.51
River Road Shell 3110 Route 120	01/30/07	ND	ND	ND	0.91
Private Residence 1115 River Rd.	12/27/2005	ND	ND	ND	1.1

24. In October 2008, Illinois EPA collected groundwater samples using geoprobes in the area surrounding the Site. Geoprobe testing was generally conducted on groundwater at a depth of approximately 30 feet below ground surface ("bgs"), indicated by "S," or at a depth of approximately 45 feet bgs, indicated by "D."

25. The October 2008 Illinois EPA geoprobe tests revealed the presence of chlorinated VOCs at the off-site G102S location. G102S is located on a parcel directly west of and adjacent to the Site. It is located approximately 30 feet west of the Site's west boundary lines. Analytical testing of the groundwater extracted at G102S contained VOC concentrations of: 110 ppb VC, 22.4 ppb DCE, 1.03 ppb TCE; and 1.40 ppb PCE.

26. The October 2008 Illinois EPA geoprobe tests revealed the presence of

chlorinated VOCs at the off-site G104S location. G104S is located approximately 500 feet southwest of and down-gradient to the Site. Analytical testing of the groundwater extracted at G104S contained VOC concentrations of: 2.01 ppb DCE, 6.39 ppb TCE; and 74.3 ppb PCE.

27. The October 2008 Illinois EPA geoprobe tests revealed the presence of chlorinated VOCs at the off-site G105 location. G105S is located approximately 100 feet southwest down-gradient from the Site, immediately across Route 120. Analytical testing of the groundwater extracted at G105S revealed chlorinated VOC concentrations of: 367 ppb DCE, 9.34 ppb TCE, and 3.94 ppb VC. An additional geoprobe sample (G105D) taken at the same location at an approximate depth of 45 feet bgs contained a PCE concentration of 1.85 ppb.

28. The October 2008 Illinois EPA geoprobe tests revealed the presence of chlorinated VOCs at the off-site G106 location. G106 is located near G104 and approximately 500 feet down-gradient from and to the southwest of the Site. Analytical testing of the groundwater extracted at G106S revealed chlorinated VOC concentrations of: 96.6 ppb DCE and 10.3 ppb VC. Analytical testing of the groundwater extracted at G106D contained chlorinated VOC concentrations of: 2.21 ppb DCE and 9.19 ppb VC.

29. In March 2009, Illinois EPA conducted additional geoprobe groundwater tests of the area surrounding the Site.

30. The March 2009 Illinois EPA geoprobe tests revealed the presence of chlorinated VOCs at the off-site G115 location. G115 is located approximately 500 feet west and slightly south of the Site. Analytical testing of the groundwater extracted at G115S contained chlorinated VOC concentrations of 6.1 ppb DCE and 3.45 ppb VC. The samples extracted at G115D contained concentrations of: 4.04 ppb DCE and 1.55 ppb VC.

31. The March 2009 Illinois EPA geoprobe tests revealed the presence of

chlorinated VOCs at the off-site G116S location. G116S is located directly west of the Site.

Analytical testing of the groundwater extracted at an approximate depth of 30 feet bgs contained chlorinated VOC concentrations: of 24.1 ppb DCE and 1.63 ppb VC.

32. Section 12(a) of the Act, 415 ILCS 5/12(a) (2010), provides, 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.

33. Section 3.315 of the Act, 415 ILCS 5/3.315 (2010), provides the following definition:

“PERSON” is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

34. Inverse is a “person,” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2010).

35. Section 3.165 of the Act, 415 ILCS 5/3.165 (2010), provides the following definition:

“CONTAMINANT” is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

36. Chlorinated VOCs both on and off the Site are “contaminants,” as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2010).

37. Section 3.550 of the Act, 415 ILCS 5/3.550 (2010), provides the following definition:

“WATERS” means all accumulations of water, surface and underground, natural, and artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon this State.

38. The groundwater underlying the Site and off-site groundwater are “water[s]” of the State of Illinois, as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2010).

39. Section 3.545 of the Act, 415 ILCS 5/3.545 (2010), 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.

40. From at least August 4, 2003, and continuing through the date of filing of this Complaint, Inverse caused, threatened, or allowed the migration of chlorinated VOCs into soils and groundwater at the Site so as to cause the Class I Groundwater Quality Standards to be exceeded. Chlorinated VOCs were allowed to migrate into groundwater underlying the Site and into offsite groundwater.

41. The VOCs migrating to groundwater at and near the Site created, or threatened to create a nuisance and rendered the groundwater harmful to human health and the environment. This constituted water pollution as that term is defined by Section 3.545 of the Act, 415 ILCS 5/3.545 (2010).

42. Inverse, by its actions as alleged herein, caused, threatened or

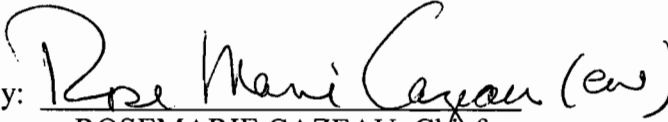
allowed water pollution, and thereby violated and continues to violate Section 12(a) of the Act, 415 ILCS 5/12(a) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, INVERSE INVESTMENTS L.L.C., with respect to this Count I, as follows:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations contained herein;
2. Finding that Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2010);
3. Ordering Respondent to cease and desist from committing any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2010);
4. Assessing against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, with an additional civil penalty of Ten Thousand Dollars (\$10,000.00) per day of violation;
5. Taxing all costs against Respondent, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action pursuant to 415 ILCS 5/42(f) (2010); and
6. Granting such other relief as the Board deems equitable and just.

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

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

By:  (ew)
ROSEMARIE CAZEAU, Chief
Environmental Bureau
Assistant Attorney General

Of Counsel:

KRYSTYNA BEDNARCZYK
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69 W. Washington Street, 18th Floor
Chicago, Illinois 60601
Ph: (312) 814-1511

CERTIFICATE OF SERVICE

I, Krystyna Bednarczyk, an Assistant Attorney General, do certify that a true and correct copy of the Complaint and Notice of Filing were sent by certified mail with return receipt requested to the persons listed on the Notice of Filing on May 4, 2011.

BY:


KRYSTYNA BEDNARCZYK