

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB NO. 19-4
	)	(Enforcement – Water)
PEORIA BARGE TERMINAL, INC.,	)	
a Delaware corporation, and MORTON	)	
SALT, INC., a Delaware corporation,	)	
	)	
Respondents.	)	

**ANSWER**

NOW COMES Respondent, PEORIA BARGE TERMINAL, INC., a Delaware corporation, by and through its attorneys, JOHNSON, BUNCE & NOBLE, P.C., and for its answer to Complainant’s Complaint, states and answers as follows:

**COUNT I**

**SURFACE WATER POLLUTION FROM ROAD SALT**

**PEORIA BARGE TERMINAL & MORTON SALT**

1. This Count is brought by the Attorney General 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 (2016), against Respondents PEORIA BARGE TERMINAL, INC. and MORTON SALT, INC.

**ANSWER: Respondent has insufficient knowledge to either admit or deny the allegations of Paragraph 1 of Count I of Complainant’s Complaint and, therefore, denies the allegations and demands strict proof thereof.**

2. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2016), and charged, *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board.

**ANSWER: Respondent admits the allegations contained in Paragraph 2 of Count I of Complainant's Complaint.**

3. The Illinois Pollution Control Board ("Board") is an independent board created by the Illinois General Assembly in Section 5 of the Act 415 ILCS 5/5 (2016), and charged, *inter alia*, with the duty of promulgating standards and regulations under the Act.

**ANSWER: Respondent admits the allegations contained in Paragraph 3 of Count I of Complainant's Complaint.**

4. This Count is brought after providing Respondents, Peoria Barge Terminal, Inc. and Morton Salt, Inc., with notice and the opportunity for a meeting with the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2016).

**ANSWER: Respondent admits the allegations contained in Paragraph 4 of Count I of Complainant's Complaint.**

5. Peoria Barge Terminal, Inc. ("PBT") is and was, at all times relevant to this Complaint, a Delaware corporation in good standing and authorized to do business in the State of Illinois.

**ANSWER: Respondent admits the allegations contained in Paragraph 5 of Count I of Complainant's Complaint.**

6. PBT owns and operates a multi-modal freight transfer and storage terminal that receives, handles, and stockpiles several bulk commodities, including but not limited to coal and road deicing salt. At times relevant to the Complaint, PBT removed the coal and road salt from barges and placed the material in large, outdoor stockpiles at its facility located on the west bank of the Illinois River, between Darst and Sanger Streets, at 1925 Darst Street in Peoria, Illinois ("the site"). The legal description of the site is the SW 1/4, Section 17, T8N, R8E (Peoria Township), in Peoria County.

**ANSWER: Respondent admits all but the first sentence of the allegations**

**contained in Paragraph 6 of Count I of Complainant's Complaint as Peoria Barge Terminal, Inc. no longer receives, handles, or stockpiles coal.**

7. Morton Salt, Inc. ("Morton") is and was, at all times relevant to this Complaint, a Delaware corporation in good standing and authorized to do business in the State of Illinois.

**ANSWER: Respondent admits the allegations contained in Paragraph 7 of Count I of Complainant's Complaint.**

8. Morton is one of the largest salt producers in North America with consumer products including table and specialty salts, water softening products and ice melters. Morton supplies salt to a wide range of industries, such as food and pharmaceuticals, for a wide range of uses, including ice control.

**ANSWER: Respondent has insufficient knowledge to either admit or deny the allegations of Paragraph 8 of Count I of Complainant's Complaint and, therefore, denies the allegations and demands strict proof thereof.**

9. Pursuant to its contract with PBT, Morton owns the road deicing salt stored at PBT's storage site and retains ownership until the salt is sold to third parties and moved off-site for delivery. Morton retains responsibility for providing coverage of its salt stored at the site.

**ANSWER: Respondent admits the allegations contained in Paragraph 9 of Count I of Complainant's Complaint.**

10. Chloride is the major component of salt. High chloride levels can slow plant growth, impair reproduction and reduce the diversity of organisms in affected waters.

**ANSWER: Respondent has insufficient knowledge to either admit or deny the allegations of Paragraph 10 of Count I of Complainant's Complaint and, therefore, denies the allegations and demands strict proof thereof.**

11. Morton road deicing salt contains ferric ferrocyanide, an iron cyanide compound commonly referred to as "Prussian blue," which serves as an anti-caking additive to prevent salt

crystals from clumping together and inhibiting roadway application.

**ANSWER:** Respondent has insufficient knowledge to either admit or deny the allegations of Paragraph 11 of Count I of Complainant's Complaint and, therefore, denies the allegations and demands strict proof thereof.

12. When exposed to water and sunlight, ferric ferrocyanide photodecomposes into its constituent parts of iron and the toxic anion of cyanide known as "free cyanide." Free cyanide can be extremely dangerous to aquatic organisms when the concentrated runoff from road salt piles enters waterways.

**ANSWER:** Respondent has insufficient knowledge to either admit or deny the allegations of Paragraph 12 of Count I of Complainant's Complaint and, therefore, denies the allegations and demands strict proof thereof.

13. The United States EPA has determined that ferric ferrocyanide is one of the "cyanides" listed as toxic pollutants under Section 307(a) of the Clean Water Act and codified at 40 C.F.R. §§ 401.15, 302.4, and Table 302.4.

**ANSWER:** Respondent admits the allegations contained in Paragraph 13 of Count I of Complainant's Complaint.

14. At the time of Illinois EPA inspections conducted in 2011 and 2012, the site consisted of approximately 100 acres along the west bank of the Illinois River, with the Morton salt stockpile located within 500 feet from the Illinois River. Storm water from the salt stockpile flowed through an unlined drainage channel into an unlined collection pond. The runoff overflow from the collection pond then discharged towards the Illinois River.

**ANSWER:** Respondent admits the allegations contained in the first two sentences of Paragraph 14 of Count I of Complainant's Complaint. Respondent denies the allegations of the third sentence of Paragraph 14 of Count I of Complainant's Complaint and demands strict proof thereof.

15. The General Assembly has found “pollution of waters of this State constitutes a menace to the public health and welfare, creates public nuisances, is harmful to wildlife, fish, and aquatic life, impairs domestic, agricultural, industrial, recreation, and other legitimate beneficial uses of water, depresses property values, and offends the senses.” 415 ILCS 5/11(a) (2016).

**ANSWER: Respondent admits the allegations contained in Paragraph 15 of Count I of Complainant’s Complaint.**

16. Section 12 of the Act, 415 ILCS 5/12 (2016), 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.

**ANSWER: Respondent has insufficient knowledge to either admit or deny the allegations of Paragraph 16 of Count I of Complainant’s Complaint and, therefore, denies the allegations and demands strict proof thereof.**

17. Section 3.545 of the Act, 415 ILCS 5/3.545 (2016), defines “water pollution” as follows:

[S]uch 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.

**ANSWER: Respondent has insufficient knowledge to either admit or deny the allegations of Paragraph 17 of Count I of Complainant’s Complaint and, therefore, denies the allegations and demands strict proof thereof.**

18. In order to protect surface waters of the State, Section 302.208 of the Board’s Water

Pollution Regulations sets Numeric Water Quality Standards for chloride, dissolved iron and free cyanide. 35 Ill. Adm. Code 302.208.

**ANSWER:** Respondent has insufficient knowledge to either admit or deny the allegations of Paragraph 18 of Count I of Complainant's Complaint and, therefore, denies the allegations and demands strict proof thereof.

19. The Numeric Water Quality Standard for chloride is 500 milligrams per liter ("mg/L"). 35 Ill. Adm. Code 302.208(g).

**ANSWER:** Respondent has insufficient knowledge to either admit or deny the allegations of Paragraph 19 of Count I of Complainant's Complaint and, therefore, denies the allegations and demands strict proof thereof.

20. The Numeric Water Quality Standard for dissolved iron is 1 mg/L. 35 Ill. Adm. Code 302.208(g).

**ANSWER:** Respondent has insufficient knowledge to either admit or deny the allegations of Paragraph 20 of Count I of Complainant's Complaint and, therefore, denies the allegations and demands strict proof thereof.

21. The Numeric Water Quality Standard for free cyanide is 22 micrograms per liter ("µg/L"). 35 Ill. Adm. Code 302.208(e).

**ANSWER:** Respondent has insufficient knowledge to either admit or deny the allegations of Paragraph 21 of Count I of Complainant's Complaint and, therefore, denies the allegations and demands strict proof thereof.

22. On September 19, 2011, the Illinois EPA inspected the site. On that date, approximately 35,000 tons of Morton salt was being stored in one large, outdoor stockpile on a largely cracked and broken asphalt pad. The stockpile was covered with a black tarp; however, the tarp was ripped on the north face near the northwest corner and was not sealed to the pad with ballast around the perimeter to prevent washout of Morton salt from the toe of the stockpile.

**ANSWER: Respondent denies the allegations of Paragraph 22 of Count I of Complainant's Complaint and demands strict proof thereof.**

23. On September 19, 2011, the drainage pattern left by storm water coming into contact with the stockpile indicated that surface runoff from the pile discharged into the unlined drainage channel along the south side of the pile. The discharge flowed through the channel in a southeasterly direction and discharged into a nearby unlined collection pond.

**ANSWER: Respondent denies the allegations of Paragraph 23 of Count I of Complainant's Complaint and demands strict proof thereof.**

24. On September 26, 2011, the Illinois EPA inspected the site. On that date, the same rip in the tarp was present and conditions were largely unchanged from the September 19, 2011 inspection. A distinct drainage path of white salt material was leading away from the Morton salt stockpile from where the tarp was ripped and salt was exposed.

**ANSWER: Respondent denies the allegations of Paragraph 24 of Count I of Complainant's Complaint and demands strict proof thereof.**

25. On December 15, 2011, the Illinois EPA inspected the site. On that date, the same rip in the tarp was present and conditions were largely unchanged from the September 19, 2011 inspection. Salt runoff from the west side of the Morton salt stockpile had resulted in salt solids forming in the unlined drainage channel.

**ANSWER: Respondent denies the allegations of Paragraph 25 of Count I of Complainant's Complaint and demands strict proof thereof.**

26. On March 9, 2012, the Illinois EPA inspected the site. On that date, the tarp had been removed from approximately half of the stockpile in order to add another barge of Morton salt to the existing pile. The perimeter of the tarp that remained was not sealed at the base of the stockpile to prevent washout from the toe of the stockpile.

**ANSWER: Respondent denies the allegations of Paragraph 26 of Count I of**

**Complainant's Complaint and demands strict proof thereof.**

27. On March 9, 2012, the weather was dry; however, leachate was still being released from the Morton salt stockpile at a low trickle flow. The leachate was draining along a significant crack in the asphalt pad at the south of the pile and entering the unlined drainage channel that leads to the collection pond. The released leachate was forming salt solids in the channel.

**ANSWER: Respondent denies the allegations of Paragraph 27 of Count I of Complainant's Complaint and demands strict proof thereof.**

28. On March 9, 2012, the Illinois EPA collected one surface water sample of the runoff draining to the southeast of the Morton salt stockpile. The sample has a light green coloration. Analytical results indicated contaminant concentrations as follows:

<b>Contaminant</b>	<b>Southeast stockpile runoff</b>
Chloride (mg/l)	181,000
Total Iron (mg/l)	324
Total Cyanide (µg/l)	170,000

**ANSWER: Respondent has insufficient knowledge to either admit or deny the allegations of Paragraph 28 of Count I of Complainant's Complaint and, therefore, denies the allegations and demands strict proof thereof.**

29. On March 28, 2012, the Illinois EPA inspected the site. On that date, the tarp was still removed from more than half of the Morton salt stockpile. The perimeter of the tarp that remained was not sealed at the base of the stockpile to prevent washout from the toe of the stockpile.

**ANSWER: Respondent denies the allegations of Paragraph 29 of Count I of Complainant's Complaint and demands strict proof thereof.**

30. On March 28, 2012, the weather was dry; however, leachate was still being released from the Morton salt stockpile. The leachate was draining to the southwest of the pile and entering the unlined drainage channel that diverts runoff farther south to the unlined collection pond.



**ANSWER: Respondent denies the allegations of Paragraph 30 of Count I of Complainant's Complaint and demands strict proof thereof.**

31. On April 11, 2012, the Illinois EPA inspected the site. On that date, some of the west side of the Morton salt stockpile was covered with a tarp, but the majority remained uncovered. The perimeter of the tarp that remained was not sealed at the base of the stockpile to prevent washout from the toe of the stockpile.

**ANSWER: Respondent denies the allegations of Paragraph 31 of Count I of Complainant's Complaint and demands strict proof thereof.**

32. On October 18, 2012, the Illinois EPA inspected the site. On that date, site conditions were wet as a result of at least one inch of rainfall the prior night. The stockpile contained approximately 48,000 tons of Morton road salt. A black synthetic tarp covered the Morton salt stockpile, and asphalt millings were placed along a portion of the perimeter at the base of the pile as ballast.

**ANSWER: Respondent denies the allegations of Paragraph 32 of Count I of Complainant's Complaint and demands strict proof thereof.**

33. On October 18, 2012, the Morton salt stockpile was submerged in approximately eight inches of storm water that had accumulated at its base. Evidence of salt washing out from the stockpile was present.

**ANSWER: Respondent denies the allegations of Paragraph 33 of Count I of Complainant's Complaint and demands strict proof thereof.**

34. On October 18, 2012, an eroded overflow channel was present on the southeast side of the collection pond due to discharges of storm water from the pond.

**ANSWER: Respondent denies the allegations of Paragraph 34 of Count I of Complainant's Complaint and demands strict proof thereof.**

35. On October 18, 2012, Illinois EPA collected surface water samples from the south

side of the Morton salt stockpile and the collection pond. Analytical results indicated contaminant concentrations as follows:

<b>Contaminant</b>	<b>South side of Stockpile</b>	<b>Collection pond</b>
Chloride (mg/l) (IEPA lab)	18800	445
Total Iron (mg/l) (IEPA lab)	0.272	4.49
Total Cyanide (µg/l) (IEPA lab)	210	-
Total Cyanide (µg/l) (USEPA lab)	287	6
Free Cyanide (µg/l) (USEPA lab)	123	-

**ANSWER:** Respondent has insufficient knowledge to either admit or deny the allegations of Paragraph 35 of Count I of Complainant's Complaint and, therefore, denies the allegations and demands strict proof thereof.

36. The collection pond and Illinois River are "waters" of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2016), as follows:

"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.

**ANSWER:** Respondent denies the allegations contained in Paragraph 36 of Count I of Complainant's Complaint and demands strict proof thereof.

37. The Morton salt stockpiled at the site is "contaminant" as that term is defined in section 3.165 of the Act, 415 ILCS 5/3.165 (2016), as follows:

"Contaminant" is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

**ANSWER:** Respondent admits the allegations contained in Paragraph 37 of Count I of Complainant's Complaint.

38. Respondents, PBT and Morton, caused, threatened, or allowed the discharge of contaminants- salt and salt-laden water- from the storage site into waters of the State causing, or tending to cause, water pollution.

**ANSWER:** Respondent denies the allegations of Paragraph 38 of Count I of Complainant's Complaint and demands strict proof thereof.

39. By causing, threatening, or allowing the discharge of salt and salt-laden water from the storage site, causing or tending to cause water pollution, Respondents, PBT and Morton Salt, have violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2016).

**ANSWER:** Respondent denies the allegations of Paragraph 39 of Count I of Complainant's Complaint and demands strict proof thereof.

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, PEORIA BARGE TERMINAL, INC. AND MORTON SALT, INC., as follows:

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

B. Finding that Respondents violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2016);

C. Ordering Respondents to cease and desist from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2016);

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2016), assessing against each Respondent a civil penalty of up to fifty thousand dollars (\$50,000) for each violation of the Act and its regulations and up to an additional ten thousand dollars (\$10,000) for each day that each violation continued; and

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2016), awarding to Complainant its costs and reasonable attorney's fees; and

F. Granting such other relief as the Board may deem appropriate.

**COUNT II**  
**SURFACE WATER POLLUTION HAZARD**

**PEORIA BARGE TERMINAL & MORTON SALT**

1-37. Complainant realleges and incorporates by reference herein paragraphs 1 through 37 of Count I as paragraphs 1 through 37 of this Count II.

**ANSWER: Respondent's prior answers to paragraphs 1 through 37 of Count I are incorporated as Respondent's answers to paragraphs 1 through 37 of Count II of Complainant's Complaint.**

38. Section 12 of the Act, 415 ILCS 5/12 (2016), provides in pertinent part, as follows:

No person shall:

\* \* \*

(d) Deposit any contaminants upon the land in such place and manner so as to create a water pollution hazard.

**ANSWER: Respondent admits the allegations contained in Paragraph 38 of Count II of Complainant's Complaint.**

39. Respondents, PBT and Morton, deposited contaminants upon the land in such a manner so as to create a water pollution hazard.

**ANSWER: Respondent denies the allegations of Paragraph 39 of Count II of Complainant's Complaint and demands strict proof thereof.**

40. By depositing contaminants upon the land in such a manner so as to create a water pollution hazard Respondents, PBT and Morton, have violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2016).

**ANSWER: Respondent denies the allegations of Paragraph 40 of Count II of Complainant's Complaint and demands strict proof thereof.**

**PRAYER FOR RELIEF**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, PEORIA BARGE TERMINAL, INC. and MORTON SALT, INC., as follows:

A. Authorizing a hearing in this matter at which time Respondents will be required to

answer the allegations herein;

B. Finding that Respondents violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2016).

C. Ordering Respondents to cease and desist from any further violations of Section 12(d) of the Act, 415 ILCS 5/12(d) (2016);

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2016), assessing against each Respondent a civil penalty of up to fifty thousand dollars (\$50,000) for each violation of the Act and its regulations and up to an additional ten thousand dollars (\$10,000) for each day that each violation continued; and

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2016), awarding to Complainant its costs and reasonable attorney's fees; and

F. Granting such other relief as the Board may deem appropriate.

**COUNT III**  
**OFFENSIVE DISCHARGES FROM ROAD SALT**  
**PEORIA BARGE TERMINAL AND MORTON SALT**

1-37. Complainant realleges and incorporates by reference herein paragraphs 1 through 37 of Count I as paragraphs 1 through 37 of this Count III.

**ANSWER: Respondent's prior answers to paragraphs 1 through 37 of Count I are incorporated as Respondent's answers to paragraphs 1 through 37 of Count III of Complainant's Complaint.**

38. Section 304.106 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.106, prohibits offensive discharges, as follows:

[N]o effluent shall contain settleable solids, floating debris, visible oil, grease, scum, or sludge solids. Color odor and turbidity must be reduced to below obvious levels.

**ANSWER: Respondent admits the allegations contained in Paragraph 38 of Count**

**III of Complainant's Complaint.**

39. Respondents, PBT and Morton, discharged green-colored storm water containing settleable solids, such as salt, causing offensive discharges.

**ANSWER: Respondent denies the allegations of Paragraph 39 of Count III of Complainant's Complaint and demands strict proof thereof.**

40. By discharging green-colored storm water containing settleable solids, such as salt, causing offensive discharges, Respondents, PBT and Morton, have violated Section 304.106 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.106, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2016).

**ANSWER: Respondent denies the allegations of Paragraph 40 of Count III of Complainant's Complaint and demands strict proof thereof.**

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, PEORIA BARGE TERMINAL, INC. and MORTON SALT, INC., as follows:

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

B. Finding that Respondents violated Sections 304.106 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.106, and therefore Section 12(a) of the Act, 415 ILCS 5/12(a) (2016);

C. Ordering Respondents to cease and desist from any further violations of Section 304.106 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.106 and Section 12(a) of the Act, 425 ILCS 4/42(a) (2016);

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5.42(a) (2016), assessing against each Respondent a civil penalty of up to fifty thousand dollars (\$50,000) for each violation of the

Act and its regulations and up to an additional ten thousand dollars (\$10,000) for each day that each violation continued;

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2016), awarding to Complainant its costs and reasonable attorney's fees; and

F. Granting such other relief as the Board may deem appropriate.

**COUNT IV**  
**SURFACE WATER POLLUTION FROM COAL**  
**PEORIA BARGE TERMINAL**

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 pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act") 415 ILCS 5/31 (2016), against Respondent, PEORIA BARGE TERMINAL, INC.

**ANSWER: Respondent has insufficient knowledge to either admit or deny the allegations of Paragraph 1 of Count IV of Complainant's Complaint and, therefore, denies the allegations and demands strict proof thereof.**

2-10. Complainant realleges and incorporates by reference herein paragraphs 2 through 6 and paragraphs 14 through 17, of Count I as paragraphs 2 through 10 of this Count IV.

**ANSWER: Respondent's prior answers to paragraphs 2 through 6 and paragraphs 14 through 17 of Count I are incorporated as Respondent's answers to paragraphs 2 through 10 of Count IV of Complainant's Complaint.**

11. Coal stockpiles contain both organic and inorganic constituents, including iron and manganese.

**ANSWER: Respondent has insufficient knowledge to either admit or deny the allegations of Paragraph 11 of Count IV of Complainant's Complaint and, therefore, denies the allegations and demands strict proof thereof.**

12. On September 19, 2011, the Illinois EPA inspected the site. On that date, the ground

near the salt stockpile was covered in loose coal material.

**ANSWER: Respondent denies the allegations of Paragraph 12 of Count IV of Complainant's Complaint and demands strict proof thereof.**

13. On September 26, 2011, the Illinois EPA inspected the site. On that date, the water level of the collection pond was low. The exposed bottom of the collection pond was entirely black with deposited coal material.

**ANSWER: Respondent denies the allegations of Paragraph 13 of Count IV of Complainant's Complaint and demands strict proof thereof.**

14. On December 15, 2011, the Illinois EPA inspected the site. On that date, a large uncovered stockpile of coal was present on the southwest end of the storage area and near the collection pond. The ground near the salt stockpile was covered in loose coal material and a pool of liquid with petroleum sheen was present.

**ANSWER: Respondent denies the allegations of Paragraph 14 of Count IV of Complainant's Complaint and demands strict proof thereof.**

15. On March 9, 2012, the Illinois EPA inspected the site. On that date, solids accumulating in the channel and draining to the collection pond at the southeast of the site also contained visible coal runoff.

**ANSWER: Respondent denies the allegations of Paragraph 15 of Count IV of Complainant's Complaint and demands strict proof thereof.**

16. On March 9, 2012, the Illinois EPA collected one surface water sample of the runoff draining to the southeast of the stockpile. Analytical results indicated contaminant concentrations as follows:

Contaminant	Southeast stockpile runoff
Total Iron (mg/l)	324
Total Manganese (µg/l)	7130

**ANSWER: Respondent has insufficient knowledge to either admit or deny the**



**allegations of Paragraph 16 of Count IV of Complainant's Complaint and, therefore, denies the allegations and demands strict proof thereof.**

17. On October 18, 2012, the Illinois EPA inspected the site. On that date, coal material was being stored in large uncovered stockpiles on both the north and south sides of the salt stockpile. A makeshift earthen berm consisting of dirt, bricks, coal and other materials formed the south boundary of the unlined collection pond.

**ANSWER: Respondent denies the allegations of Paragraph 17 of Count IV of Complainant's Complaint and demands strict proof thereof.**

18. On October 18, 2012, Illinois EPA collected surface water samples of the runoff from the south side of the coal stockpile and the unlined collection pond. Analytical results indicated contaminant concentrations as follows:

<b>Contaminant</b>	<b>South side of Stockpile</b>	<b>Collection pond</b>
Total Iron (mg/l) (IEPA lab)	0.272	4.49
Total Manganese (µg/l) (IEPA lab)	595	-

**ANSWER: Respondent has insufficient knowledge to either admit or deny the allegations of Paragraph 18 of Count IV of Complainant's Complaint and, therefore, denies the allegations and demands strict proof thereof.**

19. The collection pond and Illinois River are "waters" of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2016), as follows:

"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.

**ANSWER: Respondent denies the allegations contained in Paragraph 19 of Count IV of Complainant's Complaint and demands strict proof thereof.**

20. The coal stockpiled at the site is a "contaminant" as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2016), as follows:

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

**ANSWER:** Respondent admits the allegations contained in Paragraph 20 of Count IV of Complainant’s Complaint.

21. Respondent PBT caused, threatened, or allowed the discharge of contaminants – coal and coal-laden water – into waters of the State so as to cause or tend to cause water pollution.

**ANSWER:** Respondent denies the allegations of Paragraph 21 of Count IV of Complainant’s Complaint and demands strict proof thereof.

22. By causing, threatening, or allowing the discharge coal and coal-laden water from the storage site, so cause or tend to cause water pollution, Respondent PBT has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2016).

**ANSWER:** Respondent denies the allegations of Paragraph 22 of Count IV of Complainant’s Complaint and demands strict proof thereof.

**PRAYER FOR RELIEF**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent PEORIA BARGE TERMINAL, INC. as follows:

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

B. Finding that Respondent PBT violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2016);

C. Ordering Respondent PBT to cease and desist from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2016);

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2016), assessing against Respondent PBT a civil penalty of up to fifty thousand dollars (\$50,000) for each violation of the Act and its regulations and up to an additional ten thousand dollars (\$10,000) for each day that each violation continued;

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2016), awarding to Complainant its costs and reasonable attorney's fees; and

F. Granting such other relief as the Board may deem appropriate.

**COUNT V**  
**SURFACE WATER POLLUTION HAZARD FROM COAL**  
**PEORIA BARGE TERMINAL**

1-20. Complainant realleges and incorporates by reference herein paragraph 1 through 20 of Count IV as paragraphs 1 through 20 of this Count V.

**ANSWER:** Respondent's prior answers to paragraphs 1 through 20 of Count IV are incorporated as Respondent's answers to paragraphs 1 through 20 of Count V of Complainant's Complaint.

21. Section 12 of the Act, 415 ILCS 5/12 (2016), provides, in pertinent part, as follows:

No person shall:

\* \* \*

(d) Deposit any contaminants upon the land in such place and manner so as to create a water pollution hazard.

**ANSWER:** Respondent admits the allegations contained in Paragraph 21 of Count V of Complainant's Complaint.

22. Respondent PBT deposited contaminants upon the land in such a manner so as to create a water pollution hazard.

**ANSWER:** Respondent denies the allegations of Paragraph 22 of Count V of Complainant's Complaint and demands strict proof thereof.

23. By depositing contaminants upon the land in such a manner so as to create a water pollution hazard, Respondent PBT has violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2016).

**ANSWER:** Respondent denies the allegations of Paragraph 23 of Count V of Complainant's Complaint and demands strict proof thereof.

**PRAYER FOR RELIEF**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the

Board enter an order against Respondent PEORIA BARGE TERMINAL, INC. as follows:

- A. Authorizing a hearing in this matter at which time Respondent PBT will be required to answer the allegations herein;
- B. Finding that Respondent PBT violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2016);
- C. Ordering Respondent PBT to cease and desist from any further violations of Section 12(d) of the Act, 415 ILCS 5/12(d) (2016);
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2016), assessing against Respondent PBT a civil penalty of up to fifty thousand dollars (\$50,000) for each violation of the Act and its regulations and up to an additional ten thousand dollars (\$10,000) for each day that each violation continued;
- E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2016), awarding to Complainant its costs and reasonable attorney's fees; and
- F. Granting such other relief as the Board may deem appropriate.

**COUNT VI**  
**OFFENSIVE CONDITIONS FROM COAL**  
**PEORIA BARGE TERMINAL**

1-20. Complainant realleges and incorporates by reference herein paragraph 1 through 20 of Count IV as paragraphs 1 through 20 of this Count VI.

**ANSWER: Respondent's prior answers to paragraphs 1 through 20 of Count IV are incorporated as Respondent's answers to paragraphs 1 through 20 of Count VI of Complainant's Complaint.**

21. Section 302.203 of the Illinois Pollution Control Board's ("Board") Water Pollution Regulations, 35 Ill. Adm. Code 302.203, prohibits offensive conditions in waters of the State, as follows:

Waters of the State shall be free from sludge or bottom deposits, floating debris, visible oil, odor, plant or algal, color or turbidity of

other than natural origin....

**ANSWER: Respondent admits the allegations contained in Paragraph 21 of Count VI of Complainant's Complaint.**

22. Respondent PBT caused offensive conditions by discharging coal and coal-laden storm water from the coal storage pile into the unlined collection pond creating coal bottom deposits and surface water with petroleum sheen.

**ANSWER: Respondent denies the allegations of Paragraph 22 of Count VI of Complainant's Complaint and demands strict proof thereof.**

23. By causing offensive conditions from the discharge of coal and coal-laden storm water from the coal storage site and creating coal bottom deposits and surface water with petroleum sheen, Respondent has violated Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203, and therefore violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2016).

**ANSWER: Respondent denies the allegations of Paragraph 23 of Count VI of Complainant's Complaint and demands strict proof thereof.**

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent PEORIA BARGE TERMINAL, INC. as follows:

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

B. Finding that Respondent PBT violated Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203, and therefore Section 12(a) of the Act, 415 ILCS 5/12(a) (2016);

C. Ordering Respondent PBT to cease and desist from any further violations of Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203, and

Section 12(a) of the Act, 415 ILCS 5/12(a) (2016);

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2016), assessing against Respondent PBT a civil penalty of up to fifty thousand dollars (\$50,000) for each violation of the Act and its regulations and up to an additional ten thousand dollars (\$10,000) for each day that each violation continued;

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2016), awarding to Complainant its costs and reasonable attorney's fees; and

F. Granting such other relief as the Board may deem appropriate.

**COUNT VII**  
**OFFENSIVE DISCHARGES FROM COAL**  
**PEORIA BARGE TERMINAL**

1-23. Complainant realleges and incorporates by reference herein paragraph 1 through 23 of Count IV as paragraphs 1 through 23 of this Count VII.

**ANSWER:** Respondent's prior answers to paragraphs 1 through 23 of Count IV are incorporated as Respondent's answers to paragraphs 1 through 23 of Count VII of Complainant's Complaint.

24. Section 304.106 of the Illinois Pollution Control Board's ("Board") Water Pollution Regulations, 35 Ill. Adm. Code 304.106, prohibits offensive discharges in waters of the State, as follows:

[N]o effluent shall contain settleable solids, floating debris, visible oil, grease, scum, or sludge solids. Color, odor and turbidity must be reduced to below obvious levels.

**ANSWER:** Respondent admits the allegations contained in Paragraph 24 of Count VII of Complainant's Complaint.

25. Respondent PBT discharged storm water containing settleable solids, such as coal, causing offensive discharges.

**ANSWER:** Respondent denies the allegations of Paragraph 25 of Count VII of

**Complainant's Complaint and demands strict proof thereof.**

26. By discharging storm water containing settleable solids, such as coal, causing offensive discharges, Respondent PBT has violated Section 304.106 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.106, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2016).

**ANSWER: Respondent denies the allegations of Paragraph 26 of Count VII of Complainant's Complaint and demands strict proof thereof.**

**PRAYER FOR RELIEF**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent PEORIA BARGE TERMINAL, INC. as follows:

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

B. Finding that Respondent PBT violated Section 304.106 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.106, and therefore Section 12(a) of the Act, 415 ILCS 5/12(a) (2016);

C. Ordering Respondent PBT to cease and desist from any further violations of Section 304.106 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.106, and Section 12(a) of the Act, 415 ILCS 5/12(a) (2016);

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2016), assessing against Respondent PBT a civil penalty of up to fifty thousand dollars (\$50,000) for each violation of the Act and its regulations and up to an additional ten thousand dollars (\$10,000) for each day that each violation continued;

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2016), awarding to Complainant its costs and reasonable attorney's fees; and

F. Granting such other relief as the Board may deem appropriate.

**COUNT VIII**  
**THREAT TO RESOURCE GROUNDWATER**  
**PEORIA BARGE TERMINAL & MORTON SALT**

1-39. Complainant realleges and incorporates herein by reference paragraphs 1-15 and 22-37 of Count I and paragraphs 11 through 18 of Count IV as paragraphs 1 through 39 of this Count VIII.

**ANSWER:** Respondent's prior answers to paragraphs 1-15 and 22-37 of Count I and paragraphs 11 through 18 of Count IV are incorporated as Respondent's answers to paragraphs 1 through 39 of Count VIII of Complainant's Complaint.

40. The site overlies the Sankoty Aquifer, a large groundwater supply for the Peoria/Central Illinois area in beneficial use since the late 1800's continuing to the present.

**ANSWER:** Respondent has insufficient knowledge to either admit or deny the allegations of Paragraph 40 of Count VIII of Complainant's Complaint and, therefore, denies the allegations and demands strict proof thereof.

41. The Sankoty Aquifer is principally a sand and gravel aquifer system capable of yielding 100,000 gallons of water per day per square foot ("gpd/ft<sup>2</sup>"), or  $1 \times 10^{-1.98}$  centimeters per second ("cm/sec"), over at least a fifty (50) square mile area.

**ANSWER:** Respondent has insufficient knowledge to either admit or deny the allegations of Paragraph 41 of Count VIII of Complainant's Complaint and, therefore, denies the allegations and demands strict proof thereof.

42. Section 671.102 of the Illinois EPA's Public Water Supplies Rules, 35 Ill. Adm. Code 671.102, defines "unconfined aquifer" as "an aquifer other than a confined aquifer."

**ANSWER:** Respondent admits the allegations contained in Paragraph 42 of Count VIII of Complainant's Complaint.

43. Section 671.102 of the Illinois EPA's Public Water Supplies Rules, 35 Ill. Adm. Code 671.102, defines "confined aquifer" as "an aquifer bounded above and below by impermeable



beds or by shale, clay, or siltstone.”

**ANSWER: Respondent admits the allegations contained in Paragraph 43 of Count VIII of Complainant’s Complaint.**

44. The principal sand and gravel aquifer underlying the site is an unconfined aquifer. The material overlying an unconfined aquifer has a very high potential for aquifer recharge, and therefore has a high potential for groundwater contamination.

**ANSWER: Respondent has insufficient knowledge to either admit or deny the allegations of Paragraph 44 of Count VIII of Complainant’s Complaint and, therefore, denies the allegations and demands strict proof thereof.**

45. The unconfined principal sand and gravel aquifer underlying the site contains “resource groundwater,” as that term is defined in Section 3.430 of the Act, 415 ILCS 5/3.430 (2016), as follows:

“Resource groundwater” means groundwater that is presently being or in the future capable of being put to beneficial use by reason of being of suitable quality.

**ANSWER: Respondent has insufficient knowledge to either admit or deny the allegations of Paragraph 45 of Count VIII of Complainant’s Complaint and, therefore, denies the allegations and demands strict proof thereof.**

46. Section 620.301(a) of the Board’s Public Water Supplies Regulations, 35 Ill. Adm. Code 620.301(a), provides as follows:

- (a) No person shall cause, threaten or allow the release of any contaminant to a resource groundwater such that:
  - (1) Treatment or additional treatment is necessary to ... assure potential use of such groundwater ...

**ANSWER: Respondent admits the allegations contained in Paragraph 46 of Count VIII of Complainant’s Complaint.**

47. As an unconfined unconsolidated principal sand and gravel aquifer that is more than

five (5) feet in thickness and located more than ten (10) feet below the surface, the resource groundwater beneath the site is "Class I: Potable Resource Groundwater" pursuant to Section 620.210(a) of the Board's Water Supplies Regulations, 35 Ill. Adm. Code 620.210(a), as follows:

- a) Groundwater located 10 feet or more below the land surface and within:
  - \*\*\*\*
  - 2) Unconsolidated sand, gravel or sand and gravel which is 5 feet or more in thickness and that contains 12 percent or less of fines (i.e. fines which pass through a No. 200 sieve tested according to ASTM Standard Practice D2488-84, incorporated by reference at Section 620.125); or
    - \*\*\*\*
  - 4) Any geologic material which is capable of a:
    - \*\*\*\*
    - B) Hydraulic conductivity of  $1 \times 10^{-4}$  cm/sec or greater....

**ANSWER: Respondent has insufficient knowledge to either admit or deny the allegations of Paragraph 47 of Count VIII of Complainant's Complaint and, therefore, denies the allegations and demands strict proof thereof.**

48. The coal and Morton salt stockpiled at the site are "contaminants" as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2016), as follows:

"Contaminant" is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

**ANSWER: Respondent admits the allegations contained in Paragraph 48 of Count VIII of Complainant's Complaint.**

49. Respondents, PBT and Morton Salt, caused, threatened, or allowed contaminated storm water to discharge onto the ground and into the unlined drainage channel and the unlined collection pond, which caused threatened, or allowed the contaminated storm water to leach through the soil and release contaminants into the groundwater supply.

**ANSWER: Respondent denies the allegations of Paragraph 49 of Count VIII of**

**Complainant's Complaint and demands strict proof thereof.**

50. By causing, threatening, or allowing contaminated storm water to discharge onto the ground and into the unlined drainage channel, the unlined collection pond, and ultimately causing, threatening, or allowing the contaminated storm water to leach into the soil and release contaminants into the groundwater supply, Respondents, PBT and Morton Salt, have violated Section 620.301(a) of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 620.301(a), and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2016).

**ANSWER: Respondent denies the allegations of Paragraph 50 of Count VIII of Complainant's Complaint and demands strict proof thereof.**

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, PEORIA BARGE TERMINAL, INC. and MORTON SALT, INC., as follows:

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

B. Finding that Respondents violated Section 620.301(a) of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 620.301(a), and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2016);

C. Ordering Respondent to cease and desist from any further violations of Section 620.301(a) of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 620.301(a), and Section 12(a) of the Act, 415 ILCS 5/12(a) (2016);

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2016), assessing against each Respondent a civil penalty of up to fifty thousand dollars (\$50,000) for each violation of the Act and its regulations and up to an additional ten thousand dollars (\$10,000) for each day that each violation continued;

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2016), awarding to Complainant its costs and reasonable attorney's fees; and

F. Granting such other relief as the Board may deem appropriate.

WHEREFORE, Respondent, PEORIA BARGE TERMINAL, INC., a Delaware corporation, respectfully request that the Board deny the relief requested in Complainant's Complaint and grant any other and further relief the Board deems just.

JOHNSON, BUNCE & NOBLE, P.C.

By:   
For the Firm

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CERTIFICATE OF E-MAIL SERVICE

I, the undersigned, on oath state the following:

That I have served the attached Answer to Complainant's Complaint by e-mail upon the following:

Carol Webb at the e-mail address of Carol.Webb@illinois.gov;  
Rachel R. Medina at the e-mail address of rmedina@atg.state.il.us;  
Michael J. Maher at the e-mail address of mmaher@smbtrials.com;  
Elizabeth S. Harvey at the e-mail address of eharvey@smbtrials.com; and  
David J. Welch at the e-mail address of dwelch@smbtrials.com;

That my e-mail address is watkins@peorialawyers.com.

That the number of pages in the e-mail transmission is 30.

That the e-mail transmission took place before 5:00 p.m. on the date of September 4, 2018.



William W.P. Atkins

Date: September 4, 2018

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