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CLERK'S OFFICE

DEC 30 2003

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,

Complainant,

vs.

4832 S. VINCENNES, L.P., an Illinois limited  
partnership, and BATTEAST  
CONSTRUCTION, INC., an Indiana  
Corporation,

Respondents.

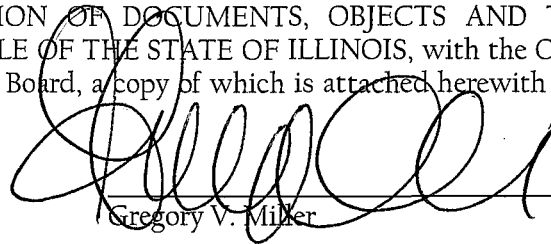
No. 04-7  
(Enforcement-Air)

STATE OF ILLINOIS  
Pollution Control Board

NOTICE OF FILING

To:	Paula Becker-Wheeler Asst. Attorney General Office of the Attorney General Environmental Bureau 188 W. Randolph, 20 <sup>th</sup> Fl. Chicago, Illinois 60601	Bradley P. Halloran Illinois Pollution Cont. Bd. 100 W. Randolph Suite 11-500 Chicago, Illinois 60601	Charles W. Murdock Loyola Law School 1 E. Pearson Chicago, Illinois 60611
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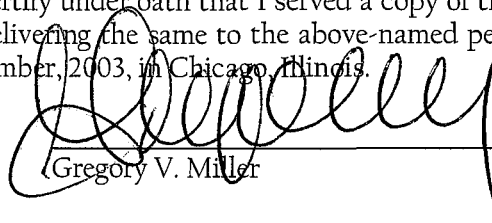
PLEASE TAKE NOTICE that on the 30<sup>th</sup> day of December, 2003, I filed the attached RESPONDENT'S FIRST SET OF INTERROGATORIES ON COMPLAINANT, PEOPLE OF THE STATE OF ILLINOIS AND ILLINOIS ATTORNEY GENERAL and RESPONDENT'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS, OBJECTS AND TANGIBLE THINGS ON COMPLAINANT, PEOPLE OF THE STATE OF ILLINOIS, with the Office of the Clerk of the Illinois Pollution Control Board, a copy of which is attached herewith and served upon you.



\_\_\_\_\_  
Gregory V. Miller

CERTIFICATION

I, Gregory V. Miller, an attorney, certify under oath that I served a copy of the attached document on the person listed above by delivering the same to the above-named person at the above-listed address on the 30<sup>th</sup> day of December, 2003, in Chicago, Illinois.



\_\_\_\_\_  
Gregory V. Miller

Gregory V. Miller, #91662  
Miller & Ferguson  
9415 S. State Street  
Chicago, Illinois 60619  
(773) 660-4300

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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DEC 3 0 2003

STATE OF ILLINOIS  
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,

Complainant,

vs.

No. 04-7  
(Enforcement-Air)

4832 S. VINCENNES, L.P., an Illinois limited  
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CONSTRUCTION, INC., an Indiana  
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Respondents.

RESPONDENT'S FIRST SET OF INTERROGATORIES ON COMPLAINANT,  
PEOPLE OF THE STATE OF ILLINOIS AND ILLINOIS ATTORNEY GENERAL

Respondent, 4832 S. Vincennes, L.P., pursuant to Section 101.616 of the Board's Procedural Regulations, Hearing Officer Order dated October 21, 2003 and Illinois Supreme Court Rule 213, requests that complainant, PEOPLE OF THE STATE OF ILLINOIS and the ILLINOIS ATTORNEY GENERAL, answer in writing, under oath, the following interrogatories:

I. INSTRUCTIONS

1. Complainant are required, in answering these interrogatories to furnish all information available to Complainant or their 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, Complainant is required to answer each part separately and in full.

3. If Complainant cannot answer an interrogatory in full, they are required to answer all parts of the interrogatory to the extent possible and specify the reason for its inability to provide additional information.

4. As to each interrogatory, or portion thereof, 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, identify each document, person, communication or meeting, which relates to, corroborates, or in any way forms the basis for the answer given.

6. If Complainant answer an interrogatory by producing documents (see Illinois Supreme Court Rule 213(e) Respondents shall make the requested documents available for inspection and copying at 9415 South State Street, Chicago, Illinois 60619.

7. Pursuant to Illinois Supreme Court Rule 213(3), Complainant are requested to serve upon Respondent's corrected, supplemented or augmented answers hereto, documents or other forms of information from whatever source, which arguably tends to show that Complainant'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.

8. Complainant shall supplement their answers and responses as new information as documents become available.

9. 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 as labeled as such.

10. 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.

11. If you encounter any ambiguity in construing any interrogatory or any definition or instruction pertaining to any interrogatory, set forth the matter deemed "ambiguous" and the construction chosen or used in responding to the interrogatory.

12. In producing documents in response to an interrogatory (See Illinois Supreme Court Rule 213(e)), you are requested to furnish all documents or things in your actual or constructive possession, custody or control, or known or available to you, regardless of whether such documents or things are possessed directly by you or by your attorneys, agents, employees, representatives or investigators.

13. This discovery is deemed continuing, necessitating supplemental answers by Complainant, or anyone acting on its behalf, when or if they obtain additional information, which supplements or alters the answers now provided.

## II. CLAIMS OF PRIVILEGE

1. With respect to any interrogatory, which Complainant refuses to answer on a claim of privilege, provide a statement signed by an attorney representing Complainant setting forth 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. "Complainant" shall mean PEOPLE OF THE STATE OF ILLINOIS and the ATTORNEY GENERAL OF THE STATE OF ILLINOIS, and any of Complainant's employees, agents, representatives, successors or assigns, or any other person acting or believed by Complainant to have acted on their behalf.

2. "Document" shall be construed in its customary broad sense 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 ledger, 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; 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 any nature, in the possession, custody or control of Complainant.

3. "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.

4. "Facility" and/or "Site" shall mean the property located at 4832 S. Vincennes, Chicago, Cook County, Illinois, as referenced in paragraph 3 Count I of the first amended complaint.

- a. As to an individual, stating his or her:
  - i. full and customarily used names;
  - ii. present business and residence addresses;
  - 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 any 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. "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.

7. "Or" shall mean and/or wherever appropriate.

8. "Related to" or "relating to" or "in relation 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 disproves, or tends to prove or disprove.

9. "Relied upon" shall mean being or having been depended upon or referred to or being or having been arguably appropriate for such reliance.

10. The term "knowledge" means first hand information and/or information derived from any other source, including hearsay.

11. "Illinois EPA" means the Illinois Environmental Protection Agency.

12. "Board" shall mean the Illinois Pollution Control Board.

13. "Current" or "Present" means the filing date of these Interrogatories.

14. All terms not specifically defined herein shall have their logical ordinary meaning, unless such terms are defined in the Act or the regulations promulgated thereunder, in which case the appropriate or regulatory definitions shall apply.

IV. INTERROGATORIES

1. Please identify:
  - a. The individual(s) answering these interrogatories on behalf of the Complainant, including his or her relationship to Complainant, and how long he or she has been associated with Complainant.
  - 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.
  - c. For each person identified in Answer to Interrogatories No. 1(b), specify the particular interrogatories to which each such person contributed.

ANSWER:

2. Identify the name, address, phone number, occupation, and responsibilities of any and all person having knowledge of activities alleged in Paragraph \_\_ of Complainant's Complaint.

ANSWER:

3. Pursuant to Illinois Supreme Court Rule 213(f), with respect to any hearing witnesses, please state the following:

- a. The name, address and employer of each witness;
- b. A summary of the relevant facts within the knowledge of or which said witnesses will testify to; and
- c. A listing of any documents or photographs, which any such witness has relied upon, will use or which may introduce into evidence in connection with the testimony of said witness.

ANSWER:

4. Furnish the identity and addresses of all expert witnesses who will testify at trial for Complainant, together with the subject matter on which each expert witness is expected to testify; the conclusions and opinions of each expert witness and the basis therefore; and the qualifications of each expert witness and a copy of all reports of such witnesses.

ANSWER:

5. With respect to any witness(es) interviewed by Complainant who Complainant do not intend to call to testify at hearing, state the name and address of any such witness, state whether a transcript of any interview with said witness was prepared, or a memorandum prepared in connection with any such interview, and provide a summary of the facts and opinions relevant to this proceeding which were secured from said witness.

ANSWER:

6. Pursuant to Illinois Supreme Court Rule 213(g), identify any and all opinion witnesses that Complainant have interviewed and/or expects to call at hearing. Specify:

- a. The subject matter on which the opinion witness is expected to testify as well as the conclusions, opinion and/or expected testimony of any such witness;
- b. The qualifications, including, but not limited to, the opinion witness' educational background, practical experience in the area he or she is expected to testify in, any articles and papers he or she has written, any and all seminars and post graduate training he has received, his experience, if any, as a teacher or lecturer and his or professional appointments and associations;
- c. The identity of each document examined, considered, or relied upon by him or her to form his or her opinions;
- d. All proceedings in which each opinion witness has previously testified as an opinion witness; and
- e. Any and all reports of the opinion witness.

ANSWER:

7. Furnish the identity and addresses of all persons that communicated with Complainant regarding the facts alleged in Complainant's Complaint.

ANSWER:

Respectfully submitted,

MILLER & FERGUSON

By: 

One of its attorneys

Miller & Ferguson, #91662  
9415 South State Street  
Chicago, Illinois 60619  
(773) 660-4300



BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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**STATE OF ILLINOIS**  
*Pollution Control Board*

PEOPLE OF THE STATE OF ILLINOIS, }

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No. 04-7

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4832 S. VINCENNES, L.P., an Illinois limited  
partnership, and BATTEAST  
CONSTRUCTION, INC., an Indiana  
Corporation, }

Respondents. }

RESPONDENT'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS, OBJECTS,  
AND TANGIBLE THINGS ON COMPLAINANT, PEOPLE OF THE STATE OF ILLINOIS

Respondent, 4832 S. Vincennes, L.P., pursuant to Section 101.616 of the Board's Procedural Regulations, Hearing Officer Order dated October 21, 2003 and Illinois Supreme Court Rule 213, requests that complainant, PEOPLE OF THE STATE OF ILLINOIS, produce, under oath, the documents specified in the following request for the production of documents, objects and tangible things ("production request"):

I. INSTRUCTIONS

1. Complainant is required, in answering this production request to furnish all information available to Complainant or its 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 a production request has subparts, Complainant is required to answer each part separately and in full.

3. If Complainant cannot answer a production request in full, they are required to answer all parts of the interrogatory to the extent possible and specify the reason for its inability to provide additional information.

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

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

6. Complainant shall make the requested documents available for inspection and copying at Miller & Ferguson, 9415 South State Street, Chicago, Illinois 60619.

7. Pursuant to Illinois Supreme Court Rule 213(3), Complainant are requested to serve upon Respondent's corrected, supplemented or augmented answers hereto, documents or other forms of information from whatever source, which arguably tends to show that Complainant'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.

8. 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 as labeled as such.

9. 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.

10. If you encounter any ambiguity in construing any production request or any definition or instruction pertaining to any production request, set forth the matter deemed "ambiguous" and the construction chosen or used in responding to the production request.

11. In producing documents in response to an interrogatory (See Illinois Supreme Court Rule 213(e)), you are requested to furnish all documents or things in your actual or constructive possession, custody or control, or known or available to you, regardless of whether such documents or things are possessed directly by you or by your attorneys, agents, employees, representatives or investigators.

12. If any requested document is not or cannot be produced in full, produce it to the extent possible, indicating with particularity what documents or portion of any such documents is not or cannot be produced and reason therefore.

13. In producing documents, you are requested to produce the original of each document requested together with all non-identical copies and drafts of that document.

14. All documents should be produced in the same order as they are kept or maintained by you.

15. All documents should be produced in a file, folder, envelope or other container in which the documents are kept or maintained by you. If for any reason the container cannot be produced, please produce copies of all labels or other identifying markings.

16. Documents attached to each other should not be separated.

17. Documents not otherwise responsive to this request shall be produced if such documents refer to, relate to, or explain the documents called for by this request and constitute routing slips, transmittal memoranda or letters, comments, evaluations, or similar documents.

18. Each document request should be construed and responded to independently from each other request. The scope of any requests should not be construed to limit or narrow the scope of any other request.

19. This discovery is deemed continuing, necessitating supplemental answers by Complainant, or anyone acting on its behalf, when or if they obtain additional information, which supplements or alters the answers now provided.

## II. CLAIMS OF PRIVILEGE

1. With respect to any production request, which Complainant refuses to answer on a claim of privilege, provide a statement signed by an attorney representing Complainant setting forth 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.

3. If you claim the attorney-client privilege or any other privilege is applicable to any document, with respect to that document:

- a. state the date of the document;
- b. identify each and every author of the document;
- c. identify each and every other person who prepared or participated in the preparation of the document;
- d. identify each and every person for whom the document was received;
- e. identify each and every person from whom the document was received;
- f. state the present location of the document and all copies thereof;
- g. identify each and every person having custody or control of the document and all copies thereof; and
- h. provide sufficient further information concerning the document to explain the claim or privilege and to permit adjudication of the property of that claim.

### III. DEFINITIONS

1. "Complainant" shall mean PEOPLE OF THE STATE OF ILLINOIS and the ATTORNEY GENERAL OF THE STATE OF ILLINOIS, and any of Complainant's employees, agents, representatives, successors or assigns, or any other person acting or believed by Complainant to have acted on their behalf.

2. "Document" shall be construed in its customary broad sense 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 ledger, 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; 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 any nature, in the possession, custody or control of Complainant.

3. "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.

4. "Facility" and/or "Site" shall mean the property located at 4832 S. Vincennes, Chicago, Cook County, Illinois, as referenced in paragraph 3 Count I of the first amended complaint.

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

- a. As to an individual, stating his or her:
  - i. full and customarily used names;
  - ii. present business and residence addresses;
  - 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: