



**RECEIVED**  
CLERK'S OFFICE

JUN 28 2007

STATE OF ILLINOIS  
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

**Lisa Madigan**  
ATTORNEY GENERAL

June 26, 2007

*PCB07-148*

The Honorable Dorothy Gunn  
Illinois Pollution Control Board  
James R. Thompson Center, Ste. 11-500  
100 West Randolph  
Chicago, Illinois 60601

Re: ***People v. Carlyle North Water Company, Inc.***

Dear Clerk Gunn:

Enclosed for filing please find the original and ten copies of a Notice of Filing, Entry of Appearance and Complaint in regard to the above-captioned matter. Please file the originals and return file-stamped copies to me in the enclosed, self-addressed envelope.

Thank you for your cooperation and consideration.

Very truly yours,

J. L. Homan  
Environmental Bureau  
500 South Second Street  
Springfield, Illinois 62706  
(217) 782-9031

JLH/pjk  
Enclosures

**RECEIVED**  
CLERK'S OFFICE

JUN 28 2007

STATE OF ILLINOIS  
Pollution Control Board

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF	)
ILLINOIS,	)
	)
Complainant,	)
	)
vs.	)
	)
CARLYLE NORTH WATER COMPANY,	)
INC., an Illinois corporation,	)
	)
Respondent.	)

PCB No. 07-148  
(Enforcement)

**NOTICE OF FILING**

To: Carlyle North Water Company, Inc.  
c/o Richard A. Kuiken, R.A.  
541 9<sup>th</sup> Street  
Carlyle, IL 62231-1824

PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois, a COMPLAINT, a copy of which is attached hereto and herewith served upon you. Failure to file an answer to this Complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in this 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.

FURTHER, please take notice that financing may be available, through the Illinois Environmental Facilities Financing Act, 20 ILCS 3515/1 (2004), to correct the pollution alleged in the Complaint filed in this case.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN,  
Attorney General of the  
State of Illinois

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

BY: 

\_\_\_\_\_  
J. L. HOMAN  
Assistant Attorney General  
Environmental Bureau

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: June 26, 2007

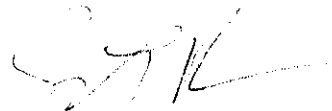
## CERTIFICATE OF SERVICE

I hereby certify that I did on June 26, 2007, send by certified mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instruments entitled NOTICE OF FILING, ENTRY OF APPEARANCE and COMPLAINT:

To: Carlyle North Water Company, Inc.  
c/o Richard A. Kuiken, R.A.  
541 9<sup>th</sup> Street  
Carlyle, IL 62231-1824

and the original and ten copies by First Class Mail with postage thereon fully prepaid of the same foregoing instrument(s):

To: Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
Suite 11-500  
100 West Randolph  
Chicago, Illinois 60601



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J. L. Homan  
Assistant Attorney General

This filing is submitted on recycled paper.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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JUN 28 2007

STATE OF ILLINOIS  
Pollution Control Board

PEOPLE OF THE STATE OF )  
ILLINOIS, )  
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Complainant, )  
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vs. )  
 )  
CARLYLE NORTH WATER COMPANY, )  
INC., an Illinois corporation, )  
 )  
Respondent. )

PCB No. 07-148  
(Enforcement)

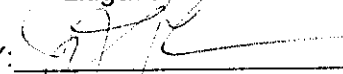
ENTRY OF APPEARANCE

On behalf of the Complainant, PEOPLE OF THE STATE OF ILLINOIS, J. L. HOMAN, Assistant Attorney General of the State of Illinois, hereby enters her appearance as attorney of record.

Respectfully submitted,

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

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

BY:   
\_\_\_\_\_  
J. L. HOMAN  
Environmental Bureau  
Assistant Attorney General

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: June 27, 2007

**RECEIVED**  
CLERK'S OFFICE

JUN 28 2007

STATE OF ILLINOIS  
Pollution Control Board

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF	)
ILLINOIS,	)
	)
Complainant,	)
	)
v.	)
	)
CARLYLE NORTH WATER	)
COMPANY, INC.,	)
an Illinois corporation	)
	)
Respondent.	)

PCB NO. 07-148  
(Enforcement)

**COMPLAINT**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, CARLYLE NORTH WATER COMPANY, INC., as follows:

**COUNT I**

**FAILURE TO OBTAIN A CONSTRUCTION PERMIT**

1. This Complaint 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 (2004).

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 (2004), and charged, *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board ("Board").

3. This Complaint is brought pursuant to Section 31 of the Act, 415 ILCS 5/31 (2004), after providing the Respondent with notice and the opportunity for a meeting with the Illinois EPA.

4. The Respondent, Carlyle North Water Company, Inc. ("Carlyle North"), is a not-for-profit Illinois corporation. Carlyle North supplies water to the City of Carlyle and the Village of Keyesport. Carlyle North receives its water from the City of Carlyle public water supply. Richard A. Kuiken, is the registered agent for the corporation and he may be reached at 541 9<sup>th</sup> Street, Carlyle, Illinois, 62231-1824.

5. On August 16, 2004, the Illinois EPA was informed that a water main extension had been improperly installed onto the Carlyle North water system.

6. On August 16, 2004, the Illinois EPA contacted the Registered Operator of the Carlyle North system, Travis Sanders. At that time, Mr. Sanders was advised to submit "as built" plans for the extension.

7. On August 26, 2004, the Illinois EPA conducted an inspection of the extension. Approximately one half mile of four inch water main had been installed with a flush hydrant at the end. In order to complete this installation, the previous flush header had been removed from the line, possibly contaminating the system.

8. After review of relevant files, the Illinois EPA determined that no construction permit application had been submitted for the extension, and no construction permit was issued for that project.

9. Carlyle North submitted "as built" plans to the Illinois EPA on December 9, 2004. Those plans were incomplete.

10. Section 3.365 of the Act, 415 ILCS 5/3.365 (2004), provides:

“Public water supply” means all mains, pipes and structures through which water is obtained and distributed to the public, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use and which serve at least 15 service connections or which regularly serve at least 25 persons at least 60 days per year. A public water supply is either a “community water supply” or a “non-community water supply.”

11. Section 15 of the Act, 415 ILCS 5/15(2004), provides as follows:

(a) Owners of public water supplies, their authorized representative, or legal custodians, shall submit plans and specifications to the Agency and obtain written approval before construction of any proposed public water supply installations, changes or additions is started. Plans and specifications shall be complete and of sufficient detail to show all proposed construction, changes, or additions that may affect sanitary quality, mineral quality, or adequacy of the public water supply; and, where necessary, said plans and specifications shall be accompanied by supplemental data as may be required by the Agency to permit a complete review thereof.

12. Section 18 of the Act, 415 ILCS 5/18 (2004), provides as follows:

(a) No person shall:

(1) Knowingly cause, threaten or allow the distribution of water from any public water supply of such quality or quantity as to be injurious to human health;

(2) Violate regulations or standards adopted by the Agency pursuant to Section 15(b) of this Act or by the Board under this Act; or

(3) Construct, install or operate any public water supply without a permit granted by the Agency, or in violation of any condition imposed by such a permit.

13. Section 602.101 of the Board’s Water Pollution Regulations, 35 Ill. Adm.



Code 602.101 provides in pertinent part as follows:

- a) No person shall cause or allow the construction of any new public water supply installation or cause or allow the change of or addition to any existing public water supply, without a construction permit issued by the Environmental Protection Agency (Agency). Public water supply installation, change or addition shall not include routine maintenance, service pipe connections, hydrants and valves, or replacement of equipment, pipe, and appurtenances with equivalent equipment, pipe, and appurtenances.

14. Section 652.101 of the Board's Water Pollution Control Regulations, 35 Ill.

Adm. Code 652.101, provides in pertinent part as follows:

- a) Construction permits shall be obtained by the official custodian of a community water supply prior to beginning construction of any proposed community water supply and prior to all alterations, changes or additions to an existing community water supply which may affect the sanitary quality, mineral quality or adequacy of the supply including changes pursuant to 35 Ill. Adm. Code 653.115.

15. By causing or allowing the change of or addition to any existing public water supply without a construction permit issued by the IEPA, the Respondent has violated Sections 15 and 18 of the Act, 415 ILCS 5/15, 18 (2004), and 35 Ill. Adm. Code 602.101, 652.101.

16. These violations have occurred repeatedly since at least September 2002.

### **PRAYER FOR RELIEF**

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent, CARLYLE NORTH:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000) for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000) for each day during which each violation has continued thereafter;
- E. Awarding to Complainant its costs and reasonable attorney's fees; and
- F. Granting such other relief as the Board may deem appropriate.

## **COUNT II**

### **FAILURE TO HAVE A CERTIFIED OPERATOR**

1-13. Complainant realleges and incorporates herein by reference paragraphs 1 through 13 of Count I as paragraphs 1 through 13 of this Count II.

14. Section 611.101 of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 611.101, provides as follows: "supplier of water" or "supplier" means any person who owns or operates a public water system (PWS)."... Respondent is a "supplier" as that term is defined under Section 611.101 of the Board's Public Water Supplies Regulations.

15. Section 1 of the Public Water Supply Operations Act, 415 ILCS 45/1(2004), provides, in pertinent part, as follows:

In order to safeguard the health and well being of the

populace, every community water supply in Illinois shall have on its operational staff at least one natural person certified as competent as a water supply operator under the provisions of this Act.

Except for exempt community water supplies as specified in Section 9.1 of this Act, all portions of a community water supply system shall be under the direct supervision of a properly certified community water supply operator.

16. Section 603.102 of the Board's Public Water Supplies Regulations, 35 Ill.

Adm. Code 603.102, provides in pertinent part as follows:

Each public water supply shall have designated an individual in responsible charge of the operation of that supply properly qualified and registered pursuant to Public Water Supply Operations Act [415 ILCS 45], with all provisions of the Public Water Supply Operations Act complied with.

17. Travis Sanders was the registered certified operator for Carlyle North on during the times relevant to this Complaint.

18. A review of Illinois EPA records indicated that Travis Sanders' Class C drinking water certificate expired on July 1, 2004. Mr. Sanders continued to serve as Carlyle North's water operator although he did not renew his certificate in a timely manner. Illinois EPA records reflect that a new operator, Paul Cox, assumed Mr. Sanders' duties on March 22, 2005. The Agency was notified of that change on or about March 19, 2005.

19. According to the records of the Plaintiff Illinois EPA, the Respondent did not have a certified operator from July 1, 2004, until approximately March 22, 2005.

20. By not having at least one certified operator designated in responsible charge of Carlyle North, the Respondent has violated Section 1 of the Public Water

Supply Operations Act, 415 ILCS 45.1(2004), and Section 603.102 of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 603.102.

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent, CARLYLE NORTH:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000) for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000) for each day during which each violation has continued thereafter;
- E. Awarding to Complainant its costs and reasonable attorney's fees; and
- F. Granting such other relief as the Board may deem appropriate.

**COUNT III**

**FAILURE TO MAINTAIN AND SUBMIT REPORTS**

1-12. Complainant realleges and incorporates herein by reference paragraphs 1 through 12 of Count I as paragraphs 1 through 12 of this Count III.

13. Section 19 of the Act, 415 ILCS 5/19 (2004) provides:

Owners or official custodians of public water supplies shall submit such samples of water for analysis and such reports of operation pertaining to the sanitary quality, mineral quality, or adequacy of such supplies as may be requested by the Agency. Such samples and reports shall be submitted within 15 days after demand by the Agency.

14. Section 611.521 of the Board's Water Pollution Regulations, 35 Ill. Adm.

Code 611.521, provides in pertinent part as follows:

- a) Suppliers must collect total coliform samples at sites that are representative of water throughout the distribution system according to a written sample siting plan, which must be approved by a SEP issued pursuant to Section 611.110.

\* \* \*

- d) The supplier must collect samples at regular time intervals throughout the month, except that a supplier that uses only groundwater (except groundwater under the direct influence of surface water) and serves 4,900 persons or fewer, may collect all required samples on a single day if they are taken from different sites.

15. Section 611.831 of the Board's regulations, 35 Ill. Adm. Code 611.831, provides as follows:

Within 30 days following the last day of the month, each CWS supplier must submit a monthly operating report to the Agency on forms provided or approved by the Agency.

16. Section 653.605 of the Board's Water Pollution Regulations, 35 Ill. Adm.

Code 653.605, provides as follows:

- a) A copy of the daily operating report records signed by the certified operator or registered person in responsible charge shall be submitted to the Illinois Environmental Protection Agency each month as required by 35 Ill. Adm.

Code 606.101. These operating reports shall show:

- 1) amount of water pumped;
  - 2) chlorine chemical used;
  - 3) amount of chlorine chemical fed;
  - 4) calculated chlorine dosage; and
  - 5) residual chlorine test results.
- b) An individual set of records shall be maintained for each installation when more than one source of water with separate chlorination equipment is used.
- c) A copy of the daily operating report shall be maintained by the official custodian of the community water supply.

17. Section 653.704 of the Board's Water Pollution Regulations, 35 Ill. Adm.

Code 653.704, provides as follows:

- a) A copy of the daily operating report record signed by the certified operator or registered person in responsible charge shall be submitted to the Illinois Environmental Protection Agency each month as required by 35 Ill. Adm. Code 606.101. These operating reports shall show:
- 1) amount of water pumped;
  - 2) fluoride chemical used;
  - 3) amount of fluoride chemical fed
  - 4) gallons of dilution water used;
  - 5) calculated fluoride dosage; and
  - 6) fluoride ion test results.
- b) An individual set of records shall be maintained for each installation when more than one source of water with separate fluoridation equipment is used.
- c) A copy of the daily operating report records shall be maintained by the official custodian of the community water supply.

18. A review of records by the Illinois Environmental Protection Agency

revealed that the Agency has not received coliform sample results for the period of April

2004.

19. By failing to submit coliform sample results for the period of April, 2004, the Respondent has violated Sections 18 and 19 of the Act, 415 ILCS 5/18, 19 (2004) and Section 611.521 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 611.521, which require that coliform sample results be submitted to the Agency.

20. A review of records by the Illinois Environmental Protection Agency revealed that the Agency has not received monthly operating reports for the period October of 2004 until the date of the filing of this complaint.

21. By failing to submit monthly operating reports, the Respondent has violated Sections 18 and 19 of the Act, 415 ILCS 5/18, 19 (2004) and Section 611.831 of the Board's Water Pollution Control Regulations, 35 Ill. Adm. Code 611.831, which require that monthly operating reports be submitted to the Agency on a monthly basis.

22. These violations have occurred from October, 2004, until the present.

23. A review of records by the Illinois Environmental Protection Agency revealed that the Agency has not received monthly chlorination operating records for the period October of 2004 until the date of the filing of this complaint.

24. By failing to submit monthly chlorination operating records, the Respondent has violated Sections 18 and 19 of the Act, 415 ILCS 5/18, 19 (2004), and Section 653.605 of the Board's Water Pollution Control Regulations, 35 Ill. Adm. Code 653.605, which require that monthly chlorination operating records be submitted to the Agency.

25. These violations have occurred from October, 2004, until the present.

26. A review of records by the Illinois Environmental Protection Agency revealed that the Agency has not received monthly fluoride operating records for the

period October of 2004 until the date of the filing of this complaint.

27. By failing to submit monthly fluoride operating records, the Respondent has violated Sections 18 and 19 of the Act, 415 ILCS 5/18, 19 (2004) and Section 653.704 of the Board's Water Pollution Control Regulations, 35 Ill. Adm. Code 653.704, which require that monthly fluoride operating records be submitted to the Agency on a monthly basis.

28. These violations have occurred from October, 2004, until the present.

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent, CARLYLE NORTH:

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

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E. Awarding to Complainant its costs and reasonable attorney's fees; and

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

Respectfully submitted,  
PEOPLE OF THE STATE OF ILLINOIS



LISA MADIGAN,  
Attorney General of the  
State of Illinois,

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

BY: 

THOMAS DAVIS, Chief  
Environmental Bureau  
Assistant Attorney General

Of Counsel

J.L. Homan  
Assistant Attorney General  
500 South Second Street  
Springfield, Illinois 62706  
217/782-9031

Dated: 6/25/07