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OCT 07 2008

OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

STATE OF ILLINOIS
Pollution Control Board

Lisa Madigan
ATTORNEY GENERAL

October 3, 2008

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board
James R. Thompson Center, Ste. 11-500
100 West Randolph
Chicago, Illinois 60601

PCB09-22

Re: ***People v. William Warren***

Dear Clerk:

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,

A handwritten signature in black ink, appearing to be "J. L. Homan", written over a horizontal line.

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

JLH/pk
Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF)
ILLINOIS,)
)
Complainant,)
)
vs.)
)
WILLIAM WARREN,)
)
Respondent.)

PCB No. 09-22
(Enforcement)

NOTICE OF FILING

To: William Warren
2890 Governor's Drive
P.O. Box 189
Carlyle, IL 62231

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STATE OF ILLINOIS
Pollution Control Board

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 (2006), 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: October 3, 2008

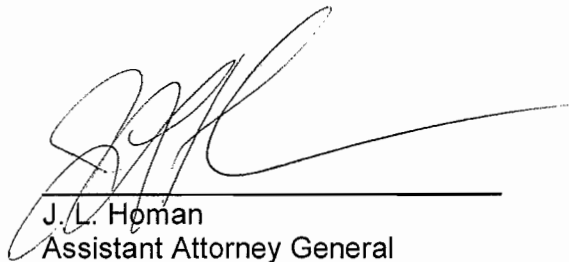
CERTIFICATE OF SERVICE

I hereby certify that I did on October 3, 2008, 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: William Warren
2890 Governor's Drive
P.O. Box 189
Carlyle, IL 62231

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

To: John T. Therriault, Assistant Clerk
Illinois Pollution Control Board
James R. Thompson Center
Suite 11-500
100 West Randolph
Chicago, Illinois 60601



J.L. Homan
Assistant Attorney General

This filing is submitted on recycled paper.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF)
ILLINOIS,)
)
 Complainant,)
)
 vs.)
)
 WILLIAM WARREN,)
)
 Respondent.)

PCB No. 09-22
(Enforcement)

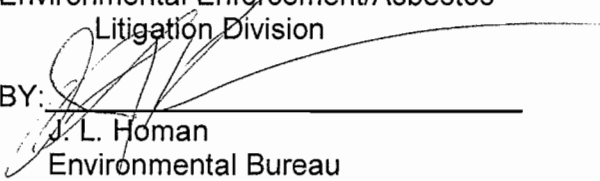
ENTRY OF APPEARANCE

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: October 3, 2008

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF)
ILLINOIS,)
)
 Complainant,)
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 v.)
)
 WILLIAM WARREN,)
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 Respondent.)

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STATE OF ILLINOIS
Pollution Control Board

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, WILLIAM WARREN, 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 (2006).

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 (2006), 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 (2006), after providing the Respondent with notice and the opportunity for a meeting with the Illinois EPA.

4. Carlyle North, a not-for-profit corporate entity, owns a public water supply that provides service to approximately two thousand one hundred people. Carlyle North purchases water from the City of Carlyle public water supply.

5. The Respondent, William Warren, is an individual who is involved in real estate development. William Warren's contact address is 2890 Governor's Drive, Post Office Box 189, Carlyle, Illinois 62231.

6. On August 16, 2004, the Illinois EPA was informed that a water main extension (the "extension") had been improperly installed onto the Carlyle North water system (the "system"). The extension in question was installed along Bull Frog Lane near the intersection with Walcott Road in Carlyle, Clinton County, Illinois.

7. On a date prior to August 16, 2004, and better known to the Respondent, he caused the extension to be added onto the system. Mr. Warren is the owner and operator of that extension.

8. 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.

9. 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.

10. After review of relevant files, the Illinois EPA determined that no construction permit application had been submitted for the extension. Carlyle North, a not-for-profit corporate entity involved in the project, eventually submitted "as built" plans to the Illinois EPA on December 9, 2004. Those plans were incomplete. No construction permit was issued for the extension.

11. Section 3.365 of the Act, 415 ILCS 5/3.365 (2006), 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."

12. Section 3.145 of the Act, 415 ILCS 5/3.145 (2006), provides in pertinent part as follows: "'Community water supply' means a public water supply which serves or intended to serve at least 15 service connections used by residents or regularly serves at least 25 residents."

13. Section 15 of the Act, 415 ILCS 5/15(2006), 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.

14. 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.

* * *

15. By causing or allowing the change of or addition to any existing public water supply without first obtaining a construction permit issued by the IEPA, the Respondent has violated Section 15 of the Act, 415 ILCS 5/15(2006), and 35 Il. Adm. Code 602.101.

16. These violations have occurred repeatedly since at least August, 2004.

PRAYER FOR RELIEF

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

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

CONSTRUCTION PERMIT VIOLATIONS

1-14. Complainant realleges and incorporates herein by reference paragraphs 1 through 14 of Count I as paragraphs 1 through 14 of this Count II.

15. Section 18 of the Act, 415 ILCS 5/18(2006), provides in pertinent part 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; or

(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.

* * *

16. Section 652.101 of the Board's Water Pollution Control Regulations, 35 Il.

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.

17. By removing the flush hydrant at the end of the line and causing or allowing the alteration, change or addition to an existing community water supply in a manner which may affect the sanitary or mineral quality of the water or the adequacy of the supply of the water where a construction permit had not previously been obtained by the official custodian of the community water supply, the Respondent has violated 35 Ill. Adm. Code 652.101.

18. By violating 35 Il. Adm. Code 652.101, the Respondent has also violated Section 18 of the Act, 415 ILCS 5/18(2006).

19. These violations have occurred repeatedly since at least August 16, 2004.

PRAYER FOR RELIEF

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

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.

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: 10/03/08