



ENVIRONMENTAL LAW & POLICY CENTER

Protecting the Midwest's Environment and Natural Heritage

February 9, 2010

**BY CERTIFIED MAIL -
RETURN RECEIPT REQUESTED**

Dan Gerber, General Manager
Wedron Silica
P.O. Box 177
Wedron, IL 61557

RE: Notice of Intent to Sue for Violations of the Clean Water Act

Mr. Gerber:

I am writing on behalf of the Sierra Club, its individual members, and Environmental Law & Policy Center (collectively, the "Claimants"), whose members reside and recreate near and around the Wedron Silica facility located at 3450 E. 2056th Rd. in Wedron, Illinois ("the Facility") and the waters into which the Facility discharges its wastewater, including Buck Creek, Fox River, and their unnamed tributaries ("the Receiving Waters"). These members are adversely affected by pollution from the Facility. This letter constitutes Claimants' notice of intent to sue for violations of the Clean Water Act resulting from the facility's operation in violation of the law. The violations upon which this notice letter is based are more fully set forth below.

Claimants have reason to believe that Wedron Silica Company ("Wedron" or "the Company") has repeatedly violated, and will continue to violate (1) Section 301(a) of the federal Clean Water Act, 33 U.S.C. § 1311(a); and (2) the Facility's National Pollutant Discharge Elimination System ("NPDES") Permit No. IL0001759 at its Wedron Facility. More specifically, Wedron has routinely discharged wastewater from its operations of the Facility containing total suspended solids in excess of the levels allowed by its NPDES permit. The specific limits for these parameters, and the Facility's repeated violations, are discussed below.

PERMIT LIMITS

The Illinois Environmental Protection Agency originally issued NPDES Permit IL0001759 on March 26, 2004, effective April 1, 2004. The NPDES Permit was expired on March 31, 2009, but has been administratively extended. The NPDES permit effective April 1, 2004, contains concentration limits of 25.0 mg/L (30 day average) and 45.0 mg/L (daily maximum) for total suspended solids discharged from all outfalls.

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Harry W. Drucker - Chairperson Howard A. Learner - Executive Director

VIOLATIONS

The violations referred to above include, but are not limited to the following:

30-day average concentration limit violations:

<u>Outfall</u>	<u>Pollutant</u>	<u>Date</u>	<u>Permit Limit</u>	<u>Actual Discharge</u>
001	Total Suspended Solids	11/30/2006	25.0 mg/L (30-day average)	45.0 mg/L
001	Total Suspended Solids	12/31/2006	25.0 mg/L (30-day average)	86.0 mg/L
002	Total Suspended Solids	3/31/2005	25.0 mg/L (30-day average)	44.08 mg/L
002	Total Suspended Solids	2/28/2009	25.0 mg/L (30-day average)	32.5 mg/L
002	Total Suspended Solids	3/31/2009	25.0 mg/L (30-day average)	34.33 mg/L
004	Total Suspended Solids	2/28/2005	25.0 mg/L (30-day average)	27.12 mg/L
004	Total Suspended Solids	3/31/2005	25.0 mg/L (30-day average)	27.69 mg/L
004	Total Suspended Solids	4/30/2005	25.0 mg/L (30-day average)	37.95 mg/L
004	Total Suspended Solids	5/31/2005	25.0 mg/L (30-day average)	31.6 mg/L
004	Total Suspended Solids	6/30/2005	25.0 mg/L (30-day average)	45.49 mg/L
004	Total Suspended Solids	7/31/2005	25.0 mg/L (30-day average)	42.34 mg/L
004	Total Suspended Solids	8/31/2005	25.0 mg/L (30-day average)	124.13 mg/L
004	Total Suspended Solids	10/31/2005	25.0 mg/L (30-day average)	53.5 mg/L
004	Total Suspended Solids	2/28/2006	25.0 mg/L (30-day average)	27 mg/L
004	Total Suspended Solids	3/31/2006	25.0 mg/L (30-day average)	44.5 mg/L
004	Total Suspended Solids	8/31/2006	25.0 mg/L (30-day average)	92 mg/L
004	Total Suspended Solids	9/30/2006	25.0 mg/L (30-day average)	37.5 mg/L
004	Total Suspended Solids	10/31/2006	25.0 mg/L (30-day average)	28 mg/L
004	Total Suspended Solids	11/30/2006	25.0 mg/L (30-day average)	31.8 mg/L
004	Total Suspended Solids	12/31/2006	25.0 mg/L (30-day average)	31 mg/L

004	Total Suspended Solids	2/28/2007	25.0 mg/L (30-day average)	27 mg/L
004	Total Suspended Solids	4/30/2007	25.0 mg/L (30-day average)	54 mg/L
004	Total Suspended Solids	8/31/2007	25.0 mg/L (30-day average)	76 mg/L
004	Total Suspended Solids	9/30/2007	25.0 mg/L (30-day average)	33 mg/L
004	Total Suspended Solids	10/31/2007	25.0 mg/L (30-day average)	41.5 mg/L
004	Total Suspended Solids	11/30/2007	25.0 mg/L (30-day average)	32 mg/L
004	Total Suspended Solids	1/31/2008	25.0 mg/L (30-day average)	28 mg/L
004	Total Suspended Solids	2/29/2008	25.0 mg/L (30-day average)	27.5 mg/L
004	Total Suspended Solids	4/30/2008	25.0 mg/L (30-day average)	40 mg/L
004	Total Suspended Solids	5/31/2008	25.0 mg/L (30-day average)	26 mg/L
004	Total Suspended Solids	6/30/2008	25.0 mg/L (30-day average)	38 mg/L
004	Total Suspended Solids	8/31/2008	25.0 mg/L (30-day average)	49 mg/L
004	Total Suspended Solids	9/30/2008	25.0 mg/L (30-day average)	135.25 mg/L
004	Total Suspended Solids	11/30/2008	25.0 mg/L (30-day average)	107.75 mg/L
004	Total Suspended Solids	1/31/2009	25.0 mg/L (30-day average)	137 mg/L
004	Total Suspended Solids	2/28/2009	25.0 mg/L (30-day average)	40.5 mg/L
004	Total Suspended Solids	4/30/2009	25.0 mg/L (30-day average)	66.5 mg/L
004	Total Suspended Solids	5/31/2009	25.0 mg/L (30-day average)	66.5 mg/L
004	Total Suspended Solids	6/30/2009	25.0 mg/L (30-day average)	48.25 mg/L

Daily Maximum concentration violations:

<u>Outfall</u>	<u>Pollutant</u>	<u>Date</u>	<u>Permit Limit</u>	<u>Actual Discharge</u>
001	Total Suspended Solids	12/31/2006	45.0 mg/L (daily maximum)	86.0 mg/L
002	Total Suspended Solids	2/28/2009	45.0 mg/L (daily maximum)	117 mg/L
002	Total Suspended Solids	3/31/2009	45.0 mg/L	85 mg/L

			(daily maximum)	
004	Total Suspended Solids	6/30/2005	45.0 mg/L (daily maximum)	45.49 mg/L
004	Total Suspended Solids	8/31/2005	45.0 mg/L (daily maximum)	124.13 mg/L
004	Total Suspended Solids	10/31/2005	45.0 mg/L (daily maximum)	64 mg/L
004	Total Suspended Solids	3/31/2006	45.0 mg/L (daily maximum)	57 mg/L
004	Total Suspended Solids	8/31/2006	45.0 mg/L (daily maximum)	168 mg/L
004	Total Suspended Solids	9/30/2006	45.0 mg/L (daily maximum)	55 mg/L
004	Total Suspended Solids	11/30/2006	45.0 mg/L (daily maximum)	56 mg/L
004	Total Suspended Solids	2/28/2007	45.0 mg/L (daily maximum)	59 mg/L
004	Total Suspended Solids	4/30/2007	45.0 mg/L (daily maximum)	173 mg/L
004	Total Suspended Solids	8/31/2007	45.0 mg/L (daily maximum)	127 mg/L
004	Total Suspended Solids	9/30/2007	45.0 mg/L (daily maximum)	48 mg/L
004	Total Suspended Solids	10/31/2007	45.0 mg/L (daily maximum)	98 mg/L
004	Total Suspended Solids	11/30/2007	45.0 mg/L (daily maximum)	65 mg/L
004	Total Suspended Solids	1/31/2008	45.0 mg/L (daily maximum)	59 mg/L
004	Total Suspended Solids	2/29/2008	45.0 mg/L (daily maximum)	65 mg/L
004	Total Suspended Solids	3/31/2008	45.0 mg/L (daily maximum)	52 mg/L
004	Total Suspended Solids	4/30/2008	45.0 mg/L (daily maximum)	93 mg/L
004	Total Suspended Solids	5/31/2008	45.0 mg/L (daily maximum)	53 mg/L
004	Total Suspended Solids	6/30/2008	45.0 mg/L (daily maximum)	78 mg/L
004	Total Suspended Solids	8/31/2008	45.0 mg/L (daily maximum)	164 mg/L
004	Total Suspended Solids	9/30/2008	45.0 mg/L (daily maximum)	366 mg/L
004	Total Suspended Solids	11/30/2008	45.0 mg/L (daily maximum)	326 mg/L
004	Total Suspended Solids	1/31/2009	45.0 mg/L	243 mg/L

			(daily maximum)	
004	Total Suspended Solids	2/28/2009	45.0 mg/L (daily maximum)	65 mg/L
004	Total Suspended Solids	4/30/2009	45.0 mg/L (daily maximum)	196 mg/L
004	Total Suspended Solids	5/31/2009	45.0 mg/L (daily maximum)	198 mg/L
004	Total Suspended Solids	6/30/2009	45.0 mg/L (daily maximum)	76 mg/L

*Violations are listed as having occurred on the final day of the month in which they occurred, regardless of the actual date of occurrence. Information obtained from IEPA includes only the month in which the violation occurred, not the exact date of the violation. The date of violation is the date on which the relevant sample was collected. This information is in the permittee's possession.

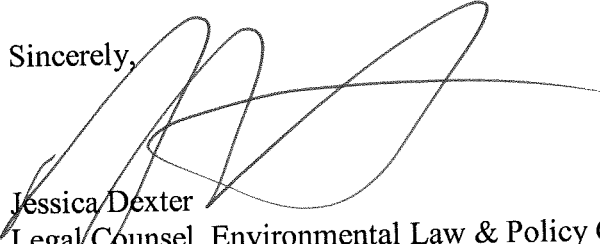
There have been nearly seventy exceedances of the Wedron Silica NPDES permit since the permit effective date in April 2004, as shown by the U.S. EPA Integrated Compliance Information System – National Pollutant Discharge Elimination System (ICIS-NPDES), based on monitoring data reported by Wedron on its monthly Discharge Monitoring Reports (DMRs). Each of the discharges represents a violation of: (1) the federal Clean Water Act, 33 U.S.C. § 1311(a); and (2) NPDES Permit No. IL0001759.

This notice letter is based on publicly available information. Additional information, including information in Wedron's possession, may reveal additional violations. This letter covers all such violations occurring within five years immediately preceding the date of this notice letter.

Claimants plan to file suit against Wedron Silica in federal court under the Clean Water Act, 33 U.S.C. § 1365, to secure appropriate relief for these violations. In so doing, Claimants seek to improve the water quality of the Receiving Waters by securing long-term compliance with applicable law.

Should you or your attorney wish to discuss this matter, please feel free to contact me at the address and phone number listed below.

Sincerely,



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Legal counsel for:

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cc: Lisa Jackson, Administrator, U.S. Environmental Protection Agency
Bharat Mathur, Acting Region V Administrator, U.S. Environmental Protection Agency
Douglas P. Scott, Director, Illinois Environmental Protection Agency
Lisa Madigan, Illinois Attorney General