

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS  
Pollution Control Board

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

Complainant, )

vs. )

HAUCK HOMES, INC., an Illinois )  
corporation, d/b/a ROCK RIVER )  
ESTATES MOBILE HOME PARK, )

Respondent. )

PCB 04-94  
(Enforcement - Water)

NOTICE OF FILING

TO: Mr. Kenneth Hauck  
Rock River Estates MHP  
291 Illinois Route 2  
Dixon, Illinois 61021

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board a Complaint, Notice of Filing, and a Certificate of Service on behalf of the People of the State of Illinois, a copy of which is attached and herewith served upon you.

Section 103.204(f) of the Pollution Control Board Procedural Rules, 35 Ill. Adm. Code 103.204(f) provides: "Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the 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.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN  
Attorney General  
State of Illinois

BY:

  
ZEMEHERET BEREKET-AB  
Assistant Attorney General  
Environmental Bureau  
188 W. Randolph St., 20th Flr.  
Chicago, IL 60601  
(312) 814-3816

DATE: December 12, 2003

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THIS FILING IS SUBMITTED ON RECYCLED PAPER

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COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, HAUCK HOMES, INC., doing business as ("d/b/a") ROCK RIVER ESTATES MOBILE HOME PARK, an Illinois corporation, as follows:

COUNT I

VIOLATION OF GENERAL EFFLUENT STANDARDS - WATER POLLUTION

1. This Complaint is brought by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency, pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(2002).

2. The Illinois Environmental Protection Agency ("Illinois EPA") is an administrative agency established in the executive

branch of the State Government by Section 4 of the Act, 415 ILCS 5/4(2002), and is charged, *inter alia*, with the duty of enforcing the Act. The Illinois EPA is further charged with the duty to administer and abate violations of the National Pollutant Discharge Elimination System ("NPDES") permit program under the Federal Clean Water Act ("CWA"), U.S.C. Sec. 1342(b)(7).

3. At all times relevant to this complaint, Defendant, HAUCK HOMES, INC. ("HHI"), has been and is now an Illinois corporation in good standing. HHI operates three manufactured home communities under its corporate umbrella.

4. HHI owns and operates the Rock River Estates Mobile Home Park ("RREMHP").

5. The RREMHP is located approximately five miles south of Dixon, Lee County, Illinois ("Facility").

6. The legal description of the location of the Facility is the southeast quarter of Section 9, Township 21 North, Range 8 East of the Fourth Principal Meridian in Nelson Township, Lee County.

7. Prior to HHI's purchase of the Facility, the Facility and its wastewater treatment plant located at the site, used to be owned and operated by Harold J. Moore as Moore's Mobile Home Park ("Moore").

8. Moore constructed and operated the wastewater treatment plant at the Facility under Illinois EPA permit number 1974-GB-

1420. The construction and operating permit was issued for Moore to construct and operate, among other things, two blowers and two sewage pumps.

9. Sometime in 1995, at a time better known to Respondent, Moore sold the Facility to HHI.

10. On February 15, 1996, the Illinois EPA issued NPDES permit number IL0052582 to Rock River Estates. The permit issued in 1996 was effective until March 31, 2002. Under the NPDES permit effective until March 31, 2002, the fecal coliform limit of 400 colonies per 100 milliliters applied year round from January through December.

11. NPDES permit No. IL0052582, was reissued to Rock River Estates on March 27, 2002, with an effective date of April 1, 2002. This permit expires on March 27, 2007.

12. Special Condition 7 of NPDES permit No. IL0052582, effective April 1, 2002, provides, "Fecal coliform limits for discharge point 001 are effective May through October. Sampling of Fecal Coliform is only required during this time period."

13. The wastewater treatment plant ("WWTP") at the Facility, accepts waste from approximately 200-240 sanitary sewer connections.

14. The WWTP at RREMHP consists of an aeration tank, clarifier, aerobic sludge holding tank, polishing pond and disinfection facilities.

15. Section 3.56 of the Act, 415 ILCS 5/3.56(2002), defines waters of the State 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.

16. RREMHP discharges to the Rock River which is a water of the State of Illinois as that term is defined by Section 3.56 of the Act, 415 ILCS 5/3.56(2002).

17. Between February 2002 and June 2002, and as set forth in its discharge monitoring reports ("DMRs"), RREMHP discharged fecal coliform in excess of the limits set forth in its NPDES permit of 1996 and 2002.

18. The fecal coliform discharges, expressed in colonies per 100 milliliters ("ml"), are listed as follows:

| Parameter | Fecal Coliform        |
|-----------|-----------------------|
| Limit     | 400 per 100 ml        |
| Date      |                       |
| 02/02     | Too Numerous To Count |
| 03/02     | Too Numerous To Count |
| 05/02     | 660                   |
| 06/02     | 760                   |

19. Section 12(a) of the Act, 415 ILCS 5/12(a)(2002), 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 the Act.

20. Section 3.06 of the Act, 415 ILCS 5/3.06(2002), defines CONTAMINANT as "any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source."

21. Fecal coliform discharged by RREMHP into the Rock River is a contaminant as that term is defined by Section 3.06 of the Act, 415 ILCS 5/3.06(2002).

22. Section 3.26 of the Act 415 ILCS 5/3.26(2002), defines person as follows:

"PERSON is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, \ political subdivision, stage agency, or any other legal entity, or their legal representative, agent or assigns.

23. HHI and RREMHP are each a "person" as that term is defined in Section 3.26 of the Act, 415 ILCS 5/3.26(2002).

24. Section 3.55 of the Act, 415 ILCS 5/3.55(2002), defines water pollution as follows:

"WATER POLLUTION" is such 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, agriculture, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

25. Section 304.121(a) of the Illinois Pollution Control Board ("Board") Water Pollution Regulations, 35 Ill. Adm. Code 304.121(a), titled, Bacteria, provides in pertinent part as follows:

- a) Effluents discharged to all general use water shall not exceed 400 fecal coliforms per 100 ml...

26. Section 304.141(a) of the Board Water Pollution Regulations, 35 Ill. Adm. code 304.141(a), titled, NPDES Effluent Standards, provides in pertinent part as follows:

- a) No person to whom an NPDES Permit has been issued may discharge any contaminant in his effluent in excess of the standards and limitations for that contaminant which are set forth in his permit;

27. RREMHP allowed fecal coliform concentrations in its effluent to exceed the limits set forth in 35 Ill. Adm. Code 304.121(a).

28. By allowing fecal coliform concentrations, contaminants, to exceed levels set by 35 Ill. Adm. Code 304.121(a) and its 1996 and 2002 NPDES permits, RREMHP violated Sections 304.121(a) and 304.141(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 304.121(a) and 304.141(a).

29. By allowing fecal coliform concentrations in its effluent discharges to exceed 400 colonies per 100 ml, set forth in 35 Ill. Adm. Code 340.121(a) and its NPDES permit, RREMHP



caused, threatened or allowed water pollution in Illinois in violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2002).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to Count I:

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

2. Finding that Respondent has violated Section 12(a) of the Act, 35 Ill. Adm. Code 304.121(a), 304.141(a), and its NPDES permit;

3. Ordering the Respondent to cease and desist from further violations of Section 12(a) of the Act, 35 Ill. Adm. Code 304.121(a), 304.141(a), and its NPDES permit;

4. Ordering the Respondent to adhere to the requirements of the Act, Board Regulations and the terms of its NPDES permit;

5. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of the Act, Board Regulations and its NPDES permit, with an additional civil penalty of Ten Thousand Dollars (\$10,000.00) per day for each day that each violation continues;

6. Taxing all costs in this action, including attorney, expert witness and consultant fees, against the Respondent; and

7. Granting such other relief as the Board deems appropriate and just.

## COUNT II

### VIOLATION OF NPDES PERMIT OPERATIONAL REQUIREMENTS

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

15. During the May 28, 2002, inspection of the Facility, HHI had not performed an effluent wet well draw down test as it had agreed to perform in its Compliance Commitment Agreement of July 3, 2001.

16. Also on May 28, 2002, RREMHP had not installed any mechanism by which to accurately measure flow into its WWTP as required by the sampling, monitoring and reporting requirements specified in its NPDES permit.

17. Further, on May 28, 2002, RREMHP was operating with only one operable influent pump and one blower when it should have been operating with two pumps and blowers.

18. Section 12(f) of the Act, 415 ILCS 5/12(f) (2002), provides as follows:

No person shall:

- f. Cause, threaten or allow the discharge of any contaminant into the waters of the State, as defined herein, including but not limited to, waters to any sewage works, or into any well or from any point source within the State, without an NPDES permit for point source discharges issued by the Agency under Section 39(b) of this Act, or in violation of any term or condition imposed by such permit, or in violation of any NPDES permit filing requirement established under Section 39(b), or in

violation of any regulations adopted by the Board or of any order adopted by the Board with respect to the NPDES program.

19. Section 306.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 306.102(a), titled, Systems Reliability, provides in pertinent part as follows:

- a) Malfunctions: All treatment works and associated facilities shall be so constructed and operated so as to minimize violations of applicable standards during such contingencies as flooding, adverse weather, power failure, equipment failure, or maintenance, through such measures and multiple units, holding tanks, duplicate power sources, or other such measures as may be appropriate.

20. Section 305.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm Code 305.102(a), titled, Reporting Requirements, provides as follows:

- a) Every person within this State operating a pretreatment works, treatment works, or wastewater source shall submit operating reports to the Agency at a frequency to be determined by the Agency. "Agency" means the Illinois Environmental Protection Agency. Such reports shall contain information regarding the quantity of influent and of effluent discharged, of wastes bypassed and of combined sewer overflows; the concentrations of those physical, chemical, bacteriological and radiological parameters which shall be specified by the Agency; information concerning the biological impact of the discharge as specified by the Agency, pursuant to Section 39 of the Act; and any additional information Agency may reasonably require. This reporting requirement for pretreatment works shall only apply to those pretreatment works which are required to have a pretreatment permit or authorization to discharge pursuant to 35 Ill. Adm. Code 310.

21. As alleged in paragraphs 15, 16 and 17 of this Count II, RREMHP failed to perform effluent wet well draw down test, failed to accurately monitor influent flows to its WWTP and also failed to install backup pumps and blowers so as to minimize violations during equipment failures and maintenance.

22. By failing to perform an effluent wet well draw down test, accurately monitoring influent flows and by failing to install backup pumps and blowers, RREMHP violated Section 12(f) of the Act, 415 ILCS 5/12/(2002), and 35 Ill. Adm. Code 305.102(a) and 306.102(a).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to Count II:

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

2. Finding that the Respondent has violated Section 12(f) of the Act and 35 Ill. Adm. Code 305.102(a) and 306.102(a);

3. Ordering the Respondent to cease and desist from further violations of Section 12(f) of the Act and 35 Ill. Adm. Code 305.102(a) and 306.102(a);

4. Ordering the Respondent to comply with the requirements of the Act, Board Regulations and its NPDES permit;

5. Assessing against the Respondent a civil penalty of Ten Thousand Dollars (\$10,000.00) per day for each day each

violation of Section 12(f) of the Act, the pertinent Board Regulations and its NPDES permit continues;

6. Taxing all costs in this action, including attorney, expert witness and consultant fees, against the Respondent; and

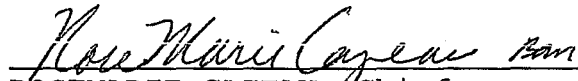
6. Granting such other relief as the Board deems appropriate and just.

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN  
Attorney General  
State of Illinois

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

BY:

  
ROSEMARIE CAZEAU, Chief  
Environmental Bureau North  
Assistant Attorney General

OF COUNSEL:

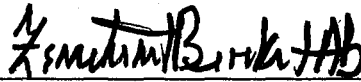
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Chicago, IL 60601  
(312) 814-3816

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CERTIFICATE OF SERVICE

I, the undersigned, certify that I have served the attached  
Complaint, Notice of Filing, and Certificate of Service via  
United States Postal certified mail upon:

Mr. Kenneth Hauck  
Rock River Estates MHP  
291 Illinois Route. 2  
Dixon, IL 61021



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ZEMEHERET BEREKET-AB  
Assistant Attorney General  
Environmental Bureau  
188 W. Randolph St., 20th Flr.  
Chicago, Illinois 60601