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APR 19 2007

STATE OF ILLINOIS  
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

**Lisa Madigan**  
ATTORNEY GENERAL

April 17, 2007

*PLB07-104*

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

Re: ***People v. Washington Trails Edge, LLC***

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,

Michael D. Mankowski  
Environmental Bureau  
500 South Second Street  
Springfield, Illinois 62706  
(217) 782-9031

MDM/pp  
Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD  
CLERK'S OFFICE

**RECEIVED**  
APR 19 2007  
STATE OF ILLINOIS  
Pollution Control Board  
PCB No. 07-104  
(Enforcement - Water)

PEOPLE OF THE STATE OF ILLINOIS,  
  
Complainant,  
  
vs.  
  
WASHINGTON TRAILS EDGE, LLC,  
an Illinois limited liability company,  
  
Respondent.

NOTICE OF FILING

To: Washington Trails Edge, LLC  
c/o Jane E. Ohaver, R.A.  
245 N.E. Perry  
Peoria, IL 61602

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:



MICHAEL D. MANKOWSKI  
Assistant Attorney General  
Environmental Bureau

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: April 17, 2007

**CERTIFICATE OF SERVICE**

I hereby certify that I did on April 17, 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: Washington Trails Edge, LLC  
c/o Jane E. Ohaver, R.A.  
245 N.E. Perry  
Peoria, IL 61602

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

  
Michael D. Mankowski  
Assistant Attorney General

This filing is submitted on recycled paper.

**RECEIVED**  
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**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

APR 19 2007

PEOPLE OF THE STATE OF ILLINOIS, )  
 )  
 Complainant, )  
 )  
 vs. )  
 )  
 WASHINGTON TRAILS EDGE, LLC, )  
 an Illinois limited liability company, )  
 )  
 Respondent. )

STATE OF ILLINOIS  
Pollution Control Board

PCB No. *07-104*  
(Enforcement - Water)

**ENTRY OF APPEARANCE**

On behalf of the Complainant, PEOPLE OF THE STATE OF ILLINOIS, MICHAEL D. MANKOWSKI, Assistant Attorney General of the State of Illinois, hereby enters his 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: *Michael D. Mankowski*  
MICHAEL D. MANKOWSKI  
Environmental Bureau  
Assistant Attorney General

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: April 17, 2007

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

**RECEIVED**  
CLERK'S OFFICE

APR 19 2007

STATE OF ILLINOIS  
Pollution Control Board  
PCB No. *04-04*  
(Water-Enforcement)

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
v. )  
)  
WASHINGTON TRAILS EDGE, LLC, )  
an Illinois limited liability company, )  
)  
Respondent. )

**COMPLAINT**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, WASHINGTON TRAILS EDGE, LLC, an Illinois limited liability company, as follows:

**COUNT I**  
**NPDES PERMIT VIOLATIONS**

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.
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. Washington Trails Edge, LLC ("WTE"), is an Illinois limited liability company, in good standing.

5. WTE owns a multi-section subdivision under construction called Trails Edge Subdivision ("site") that is located west of Dallas Road in Washington, Tazewell County, Illinois.

6. Section 12 of the Act, 415 ILCS 5/12 (2004), provides the following prohibitions:

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.

\* \* \*

7. Section 3.165 of the Act, 415 ILCS 5/3.165 (2004), provides the following definition:

"Contaminant" is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

8. Section 3.550 of the Act, 415 ILCS 5/3.550 (2004), provides the following definition:

"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.

9. Runoff from the site drains to a stormwater retention pond and into an unnamed natural stream which eventually flows into Farm Creek, all of which are "waters" of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2004).

10. WTE was issued coverage under NPDES general stormwater permit number ILR10A144 for Section 3 of Trails Edge Subdivision ("Section 3") by the Illinois EPA on March 26, 2004.

11. WTE was issued coverage under NPDES general stormwater permit number ILR10B231 for Section 5 of Trails Edge Subdivision ("Section 5") by the Illinois EPA on August 23, 2004.

12. WTE was issued coverage under NPDES general stormwater permit number ILR10F822 for Section 6 of Trails Edge Subdivision ("Section 6") by the Illinois EPA on July 12, 2006.

13. All three (3) NPDES general stormwater permits require WTE to develop and implement an adequate storm water pollution prevention plan ("SWPPP") including adequate erosion and sediment controls, inspection and maintenance of such controls, and submittal of incidents of noncompliance ("IONS") to Illinois EPA.

14. On April 12, 2005, the Illinois EPA inspected the site to evaluate WTE's compliance with the NPDES permits. Inadequate sediment controls were in place to prevent soil erosion.

15. The ground in Section 5 was entirely barren with no erosion controls present other than two (2) overrun and undercut sections of silt fence at the inlet to the stormwater retention pond.

16. Surface water leaving the northeast corner of Section 3 was carrying silt, sand, and sediment to the unnamed stream. Silt laden stormwater from Section 3 drained via storm sewers to the retention pond.

17. On April 22, 2005, the Illinois EPA conducted a reconnaissance inspection at the site.

18. On April 22, 2005, erosion controls on the site were inadequate to prevent silt-laden discharge into the stormwater retention pond and natural stream. Mud and muddy water were present on the streets and around stormwater inlets.

19. Water in the retention pond exhibited a slightly brown tint, and the unnamed stream had a chalky-brown color resulting from the sediment coming from the northeast corner of Section 3.

20. The silt fence at the pond inlet was still being overrun and undercut by the flow of sediment.

21. On July 29, 2005, the Illinois EPA conducted a followup inspection of the site.

22. On July 29, 2005, one empty lot and several lots with new homes in Section 3 were still barren and needed to be seeded. Concrete trucks were being washed out on the empty lot with the water draining into the retention pond.

23. On July 29, 2005, Section 5 was mostly barren and other erosion controls were inadequate to contain sediment from traveling offsite. Sediment deltas were present in the retention pond. Sediment, in some places more than six (6) inches deep, was present in the storm sewer invert near the pond.

24. The unnamed stream located downstream of the retention pond was lined with sediment deposits on the bottom and sides.

25. On August 28, 2006, the Illinois EPA received a citizen complaint alleging that sediment was continuing to flow from Sections 5 and 6 during rain events.

26. On August 31, 2006, the Illinois EPA inspected the site.

27. On August 31, 2006, several lots in Section 3 containing new homes were barren.

28. A sump pump was pumping muddy water from the northwest portion of Section 6 into the Section 5 storm sewer system. The storm sewer discharged the water into the

retention pond. The water in the retention pond was muddy brown with a plume of sediment emanating from the storm sewer inlet.

29. On August 31, 2006, in Section 5, individual construction sites lacked adequate control to prevent sediment discharges from entering onto streets from where they found their way into various storm drains tributary to the retention pond.

30. On August 31, 2006, Section 6 lacked proper erosion controls. The only controls present were approximately three hundred (300) feet of silt fence along the northeast side of the site. Sediment trails flowed from Section 6 to the streets in Section 5.

31. From at least April of 2005 until the filing of this complaint, WTE has failed to develop and implement an adequate SWPPP as required by the NPDES general stormwater permit, in violation of Section 12(f) of the Act.

32. By failing to maintain adequate erosion controls at its site to prevent silt-laden storm water discharges as required by its NPDES permit, WTE has caused, threatened or allowed the discharge of any contaminant into the waters of the State in violation of its NPDES permit, and has thereby violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2004).

#### **PRAYER FOR RELIEF**

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent, WASHINGTON TRAILS EDGE, LLC:

- 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. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2004), impose a civil penalty of not more than the statutory maximum; and

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

**COUNT II**  
**WATER POLLUTION**

1-29. Complainant realleges and incorporates herein by reference paragraphs 1 through 5 and 7 through 30 of Count I as paragraphs 1 through 18 of this Count II.

30. Section 12 of the Act, 415 ILCS 5/12 (2004), provides the following prohibitions:

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 this Act.

\* \* \*

(d) Deposit any contaminants upon the land in such place and manner so as to create a water pollution hazard.

\* \* \*

31. Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203, prohibits offensive conditions in waters of the State:

Waters of the State shall be free from sludge or bottom deposits, floating debris, visible oil, odor, plant or algal, color or turbidity of other than natural origin. . . .

32. Section 3.545 of the Act, 415 ILCS 5/3.545 (2004), provides the following definition:

"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, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

33. On or before April 12, 2005 and continuing until the filing of this Complaint, Respondent caused, allowed or threatened the discharge of silt from the site into waters of the State so as to cause or tend to cause offensive conditions and water pollution by creating a nuisance.

34. WTE failed to implement adequate erosion controls for the ground disturbed by construction activities, resulting in the discharge of silt, sand and sediment from the site in violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2004).

35. By so causing, allowing or threatening to cause water pollution, and by violating the water quality standard of Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203, the Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2004).

36. On or Before April 12, 2005 and continuing until the filing of this Complaint, Respondent deposited silt from the site in such place and manner so as to create a water pollution hazard.

37. WTE deposited silt upon the roadways and other property within the subdivision in violation of Section 12(d) of the Act, 415 ILCS 5/12(d) (2004).

38. By depositing a contaminant upon the land in such place and manner so as to create a water pollution hazard, the Respondent has violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2004).

#### **PRAYER FOR RELIEF**

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent, WASHINGTON TRAILS EDGE, LLC:

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. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2004), impose a civil penalty of not more than the statutory maximum; and
- E. 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:  
MICHAEL D. MANKOWSKI  
500 South Second Street  
Springfield, Illinois 62706  
217/557-0586  
Dated: 4/17/07