

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

Complainant,)

v.)

ALDEN BENNETT CONSTRUCTION)
COMPANY, INC., an Illinois corporation,)
and BLOOMINGDALE HORIZON I)
LIMITED PARTNERSHIP, a registered)
Illinois limited partnership,)

Respondents.)

PCB 08 -

(Enforcement - Water)

NOTICE OF FILING

TO: See Attached Service List

(VIA ELECTRONIC FILING)

PLEASE TAKE NOTICE that today I have filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the following Complaint, a copy of which is attached and hereby 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 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.

NOTIFICATION

YOU ARE HEREBY NOTIFIED that financing may be available through the Illinois Environmental Facilities Financing Act [20 ILCS 3515/1 *et seq.*] to correct the alleged violation.

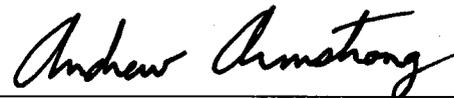
Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN

Attorney General of the State of Illinois

BY:



Andrew Armstrong
Assistant Attorney General

Andrew Armstrong
Assistant Attorney General
Environmental Bureau
69 West Washington Street, 18th Floor
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312-814-0660

DATE: July 14, 2008

SERVICE LIST

Kenneth J. Fisch
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Bloomingdale Horizon I Limited Partnership)

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COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency, complains of Respondent ALDEN BENNETT CONSTRUCTION COMPANY, INC., an Illinois corporation, and, by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion, complains of Respondent BLOOMINGDALE HORIZON I LIMITED PARTNERSHIP, a registered Illinois limited partnership, as follows:

COUNT I

WATER POLLUTION

1. This Count is brought against Respondent Alden Bennett Construction Company, Inc. on behalf of the People of the State of Illinois, by Lisa Madigan, Attorney General of the State of Illinois, 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). This Count is also brought against Respondent Bloomingdale Horizon I Limited Partnership on behalf of the People of the State of Illinois, by Lisa Madigan, Attorney General of the State of Illinois, on her own motion, pursuant to the terms and provisions of Section 31 of the Act, 415 ILCS 5/31 (2006).

2. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2006), and is charged, *inter alia*, with the duty of enforcing the Act.

3. At all times relevant to this Complaint, Respondent Alden Bennett Construction Company (“Alden Bennett”) was and is an Illinois corporation in good standing, organized and operating under the laws of the State of Illinois.

4. At all times relevant to this Complaint, Bloomingdale Horizon I Limited Partnership (“Bloomingdale Horizon I”) was and is a registered Illinois limited partnership in good standing, organized and operating under the laws of the State of Illinois.

5. At all times relevant to this Complaint, Respondent Bloomingdale Horizon I owned a 5.2-acre parcel of land located at 160 West Lake Street, Bloomingdale, DuPage County, Illinois (“Site”).

6. A small creek (“Creek”) runs through the Site.

7. Stormwater runs off from the Site into the Village of Bloomingdale’s storm water sewer system (“Storm Sewer System”).

8. The Storm Sewer System ultimately discharges to the East Branch of the DuPage River.

9. On some date prior to November 1, 2006, the precise date best known to the Respondents, Respondent Bloomingdale Horizon I retained Respondent Alden Bennett to act as

general contractor in constructing the Bloomingdale Horizon Senior Living Center ("Facility") at the Site.

10. From March 16, 2006 to August 29, 2007, the Site was covered by Illinois General National Pollutant Discharge Elimination System ("NPDES") Construction Site Permit number ILR10E858 ("NPDES Permit No. ILR10E858"), authorizing storm water discharges at the Site.

11. From some date prior to November 1, 2006 to at least May 29, 2007, the precise dates best known to Respondents, Respondent Alden Bennett acted as general contractor for the construction of the Bloomingdale Horizon Senior Living Center ("Facility") at the Site, and conducted construction activities at the Site.

12. The construction of the Facility included the grading of soil and other construction debris and other preparatory work at the Site to facilitate the construction of the Facility.

13. On November 1, 2006, the Illinois EPA inspected the Site in response to a citizen complaint that mud was being tracked onto Lake Street from the Site.

14. At the time of the November 1, 2006 inspection, there were erosion control deficiencies at the Site.

15. Specifically, on November 1, 2006, there was no silt fencing protecting the northern side of the Creek from the migration of soil and/or debris from construction activities at the Site into the Creek.

16. Also on November 1, 2006, silt fencing installed along the eastern edge of the Site had been torn down.

17. On March 22, 2007, the Illinois EPA again inspected the Site.

18. At the time of the March 22, 2007 inspection, there were still erosion control deficiencies at the Site.

19. Specifically, on March 22, 2007, the silt fencing at the Site was not being maintained.

20. Also on March 22, 2007, the Site's storm sewer inlets either had no erosion control fabric installed, or had only damaged erosion control fabric installed.

21. On April 25, 2007, the Illinois EPA issued and served upon Respondent Alden Bennett a Violation Notice pursuant to Section 31(a)(1) of the Act, 415 ILCS 5/31(a)(1) (2006), identifying violations observed during Illinois EPA's November 1, 2006 and March 22, 2007 inspections of the Site.

22. On May 25, 2007, Respondent Alden Bennett submitted a written response to the April 25, 2007 Violation Notice.

23. On May 29, 2007, the Illinois EPA again inspected the Site.

24. At the time of the May 29, 2007 inspection, there were still erosion control deficiencies at the Site.

25. Specifically, on May 29, 2007, the silt fencing installed along the western edge of the Site was not being maintained.

26. Also on May 29, 2007, the silt fencing installed along the eastern side of the Creek was not properly anchored, thus allowing soil and/or debris from construction activities at the Site to drain into the Creek.

27. On May 29, 2007, the silt fencing that had previously been installed along the western side of the Creek had been removed.

28. On May 29, 2007, the Site's soil was unstabilized.

29. Specifically, on May 29, 2007, a seed blanket had been installed along a portion of the western side of the Creek, but the northwestern corner of the seed blanket did not have adequate erosion control. The remainder of the western side of the Creek consisted of exposed dirt sloping steeply down to the Creek.

30. In addition, on May 29, 2007, damaged erosion control fabric was installed in several of the Site's storm sewer inlets.

31. On June 20, 2007, the Illinois EPA issued and served upon Respondent Alden Bennett a written notice pursuant to Section 31(a)(8) of the Act, 415 ILCS 5/31(a)(8) (2006), informing Respondent Alden Bennett that the Illinois EPA rejected the Compliance Commitment Agreement contained in Respondent Alden Bennett's May 25, 2007 written response.

32. On August 29, 2007, the Illinois EPA received from Respondents a Notice of Termination of coverage under NPDES Permit No. ILR10E858. The Notice of Termination stated that construction activities on the Site had been completed.

33. On October 19, 2007, the Illinois EPA issued and served upon Respondent Alden Bennett a written notice informing Respondent Alden Bennett that the Illinois EPA intended to pursue legal action with respect to violations identified in the April 25, 2007 Violation Notice.

34. On November 12, 2007, a representative of Respondent Alden Bennett sent the Illinois EPA written notice that Respondent Alden Bennett waived a meeting with representatives of the Illinois EPA with respect to the Illinois EPA's October 19, 2007 notice of intent to pursue legal action.

35. Section 12(a) of the Act, 415 ILCS 5/12(a) (2006), 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 this Act.

36. Section 3.315 of the Act, 415 ILCS 5/3.315 (2006), provides the following definition:

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

37. Respondents Alden Bennett, a corporation, and Bloomingdale Horizon I, a limited partnership, are each a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2006).

38. Section 3.165 of the Act, 415 ILCS 5/3.165 (2006), provides the following definition:

“CONTAMINANT” is any solid, liquid or gaseous matter, any odor, or any form of energy, from whatever source.

39. Soil and debris from construction activities at the Site are “contaminants” as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2006).

40. Section 3.550 of the Act, 415 ILCS 5/3.550 (2006), 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.

41. The Storm Sewer System and the Creek are “waters” of the State of Illinois as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2006).

42. Section 3.545 of the Act, 415 ILCS 5/3.545 (2006), 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.

43. From at least November 1, 2006 to May 29, 2007, the precise dates best known by the Respondents, Respondents Alden Bennett and Bloomingdale Horizon I failed to install proper erosion control measures at the Site, thereby causing, threatening, or allowing soil and/or debris from construction activities at the Site to discharge into the Storm Sewer System and the Creek.

44. The discharge of soil and/or debris from construction activities at the Site into the Storm Sewer System and the Creek has caused or tended to cause water pollution, in that such discharges have likely rendered the waters of the State 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, and have likely created a nuisance.

45. By causing or allowing the discharge of contaminants in such a manner as to cause or tend to cause water pollution in the waters of the State, Respondents Alden Bennett and Bloomingdale Horizon I have violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2006).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, ALDEN BENNETT

CONSTRUCTION COMPANY, INC. and BLOOMINGDALE HORIZON I LIMITED
PARTNERSHIP, for the following relief:

1. Authorizing a hearing in this matter at which time Respondents will be required to answer the allegations herein;
2. Finding that Respondents have violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2006);
3. Ordering Respondents to cease and desist from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2006);
4. Assessing against Respondents a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
5. Ordering Respondents to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2006), including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and
6. Granting such other relief as the Board deems appropriate and just.

COUNT II

CREATING A WATER POLLUTION HAZARD

1-44. Complainant realleges and incorporates by reference herein paragraphs 1 through 34 and paragraphs 36 through 45 of Count I as paragraphs 1 through 44 of this Count II.

45. Section 12(d) of the Act, 415 ILCS 5/12(d) (2006), provides, in pertinent part, as follows:

No person shall:

* * *

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

46. From at least November 1, 2006 to May 29, 2007, the precise dates best known by the Respondents, Respondents Alden Bennett and Bloomingdale Horizon I graded soil and/or debris from construction activities at the Site without providing adequate erosion control devices to prevent runoff of soil and debris-laden storm water into the Storm Sewer and the Creek, thereby creating a water pollution hazard.

47. By depositing contaminants upon the land in such place and manner so as to create a water pollution hazard, Respondents Alden Bennett and Bloomingdale Horizon I violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2006).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, ALDEN BENNETT CONSTRUCTION COMPANY, INC. and BLOOMINGDALE HORIZON I LIMITED PARTNERSHIP, for the following relief:

1. Authorizing a hearing in this matter at which time Respondents will be required to answer the allegations herein;
2. Finding that Respondents have violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2006);
3. Ordering Respondents to cease and desist from any further violations of Section 12(d) of the Act, 415 ILCS 5/12(d) (2006);

4. Assessing against Respondents a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Ordering Respondents to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2006), including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

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

COUNT III

FAILURE TO COMPLY WITH NPDES PERMIT

1. This Count is brought against Respondents Alden Bennett Construction Company, Inc. and Bloomingdale Horizon I Limited Partnership on behalf of the People of the State of Illinois, by Lisa Madigan, Attorney General of the State of Illinois, on her own motion, pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2006).

2-39. Complainant realleges and incorporates by reference herein paragraphs 2 through 20, paragraphs 23 through 30, paragraph 32, and paragraphs 36 through 45 of Count I as paragraphs 2 through 39 of this Count III.

40. Section 12(f) of the Act, 415 ILCS 5/12(f) (2006), provides in pertinent part 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 [National Pollutant

Discharge Elimination System] 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.

41. Pursuant to authority granted in Sections 13 and 27 of the Act, 415 ILCS 5/13 and 5/27 (2006), the Illinois Pollution Control Board ("Board") has promulgated rules and regulations to control water pollution in Illinois, codified at 35 Ill. Adm. Code Subtitle C, Chapter I ("Board Water Pollution Regulations").

42. Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a), provides, in pertinent part, as follows:

NPDES Permit Required

- a) Except as in compliance with the provisions of the Act, Board regulations, and the [Federal Water Pollution Control Act], and the provisions and conditions of the NPDES permit issued to the discharger, the discharge of any contaminant or pollutant by any person into the waters of the State from a point source or into a well shall be unlawful.

43. The Federal Water Pollution Control Act ("Clean Water Act") regulates the discharge of pollutants from point sources into navigable waters and prohibits such point source discharges without an NPDES permit. *See* 33 U.S.C. § 1311; 33 U.S.C. § 1342; 33 U.S.C. § 1362(12). The United States Environmental Protection Agency ("U.S. EPA") administers the NPDES program in each State, unless the U.S. EPA has delegated authority to do so to that State. *See* 33 U.S.C. § 1342.

44. The U.S. EPA has authorized the State of Illinois to issue NPDES permits through the Illinois EPA in compliance with federal regulations, including storm water discharges regulated by 40 C.F.R. § 122.26, which requires a person to obtain an NPDES permit and to

implement a storm water pollution prevention plan for construction activity including "clearing, grading and excavation." See 40 C.F.R. § 122.26(b)(14)(x).

45. 40 C.F.R § 122.26(a) provides, in pertinent part, as follows:

(a) Permit requirement.

(1) Prior to October 1, 1994, discharges composed entirely of storm water shall not be required to obtain a NPDES permit except:

* * *

(ii) A discharge associated with industrial activity.

46. 40 C.F.R. § 122.26(b)(14) provides, in pertinent part, as follows:

Storm water discharge associated with industrial activity means the discharge from any conveyance that is used for collecting and conveying storm water and that is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. . . . The following categories of facilities are considered to be engaging in 'industrial activity' for purposes of paragraph (b)(14):

* * *

(x) Construction activity including clearing, grading and excavation, except operations that result in the disturbance of less than five acres of total land area

47. Part VI.A of NPDES Permit No. ILR10E858 provides, in pertinent part, as follows:

Part VI. Standard Permit Conditions

A. Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of Illinois Environmental Protection Act and the CWA and is grounds for enforcement action

48. Part IV of NPDES Permit No. ILR10E858 provides, in pertinent part, as follows:

Part IV. Storm Water Pollution Prevention Plans

A storm water pollution plan shall be developed for each construction site covered by this permit. Storm water pollution prevention plans shall be prepared in accordance with good engineering practices. The plan shall identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges associated with construction site activity from the facility. In addition, the plan shall describe and ensure the implementation of practices which will be used to reduce the pollutants in storm water discharges associated with construction site activity and to assure compliance with the terms and conditions of this permit. Facilities must implement the provisions of the storm water pollution prevention plan required under this part as a condition of this permit.

49. By failing to implement practices necessary to reduce the pollutants in storm water discharges associated with the Site, as observed by the Illinois EPA during its inspections of the Site on November 1, 2006; March 22, 2007; and May 29, 2007, Respondents Alden Bennett and Bloomingdale Horizon I violated Part IV of NPDES Permit No. ILR10E858.

50. Part IV.D.4 of NPDES Permit No. ILR10E858 provides, in pertinent part, as follows:

- Part IV Storm Water Pollution Prevention Plans
 - * * *
 - D. Contents of plan
 - * * *
 - 4. Inspections

Qualified personnel (provided by the permittee) shall inspect disturbed areas of the construction site that have not been finally stabilized, structural control measures, and locations where vehicles enter or exit the site at least once every seven calendar days and within 24 hours of the end of a storm that is 0.5 inches or greater or equivalent snowfall.

51. Part IV.D.4.c of NPDES Permit No. ILR10E858 provides, in pertinent part, as follows:

Part IV Storm Water Pollution Prevention Plans

* * *

D. Contents of plan

* * *

4. Inspections

* * *

- c. A report summarizing the scope of the inspection, name(s) and qualifications of personnel making the inspection, the date(s) of the inspection, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with paragraph b above shall be made and retained as part of the storm water pollution prevention plan for at least three years from the date that the permit coverage expires or is terminated. . . .

52. Part VI.E of NPDES Permit No. ILR10E858 provides, in pertinent part, as follows:

Part VI Standard Permit Conditions

* * *

E. Duty to Provide Information.

* * *

Upon request, the permittee shall also furnish to the Agency or local agency approving sediment and erosion plans, grading plans, or storm water management plans . . . copies of records required to be kept by this permit.

- 53. On August 29, 2007, the Illinois EPA terminated NPDES Permit No. ILR10E858.
- 54. The inspection requirement as described by Part IV.D.4 of the NPDES Permit began on March 16, 2006 and ended on August 29, 2007.
- 55. From March 16, 2006, up to and including the time of the November 1, 2006 inspection of the Site by the Illinois EPA, Respondents were required to have, at a minimum, thirty-two (32) weekly inspection reports pursuant to Part IV.D.4 of NPDES Permit No. ILR10E858. During the November 1, 2006 inspection of the site, neither Respondent Alden

Bennett nor Respondent Bloomingdale Horizon I made the reports available to the Illinois EPA inspector.

56. From March 16, 2006, up to and including the time of the March 22, 2007 inspection of the Site by the Illinois EPA, Respondents were required to have, at a minimum, fifty-two (52) weekly inspection reports pursuant to Part IV.D.4 of NPDES Permit No. ILR10E858. Respondents had begun to create reports following the Illinois EPA's November 1, 2006 inspection, but had stopped creating them after December 11, 2006. During the March 22, 2007 inspection of the Site, neither Respondent Alden Bennett nor Respondent Bloomingdale Horizon I made any reports for before November 1, 2006, or for after December 11, 2006, available to the Illinois EPA inspector.

57. By failing to make the site inspection reports required by Part IV.D.4 of NPDES Permit No. ILR10E858 available to the Illinois EPA, Respondents Alden Bennett and Bloomingdale Horizon I violated Parts IV.D.4 and VI.E of NPDES Permit No. ILR10E858.

58. Part IV.B.1 of NPDES Permit No. ILR10E858 provides, in pertinent part, as follows:

Part IV Storm Water Pollution Prevention Plans

* * *

B. Signature, Plan Review and Notification

1. The plan shall be signed in accordance with Part VI.G (Signatory Requirements), and be retained on-site at the facility which generates the storm water discharge in accordance with Part VI.E (Duty to Provide Information) of this permit.

59. During the November 1, 2006 inspection of the Site by the Illinois EPA, a representative of Respondent Alden Bennett was present at the Site during the inspection. The Illinois EPA inspector requested a copy of the complete Storm Water Pollution Prevention Plan

("SWPPP"). Neither Respondent Alden Bennett nor Respondent Bloomingdale Horizon I made the SWPPP available to the Illinois EPA inspector at the time of the November 1, 2006 inspection. Pursuant to Parts IV.B.1 and VI.E of NPDES Permit No. ILR10E858, Respondents Alden Bennett and Bloomingdale Horizon I were required to retain the SWPPP on-Site and make it available to the Illinois EPA upon the Illinois EPA's request.

60. By failing to make the SWPPP required under Part IV of NPDES Permit No. ILR10E858 available to the Illinois EPA during its November 1, 2006 inspection, Respondents Alden Bennett and Bloomingdale Horizon I violated Parts IV.B.1 and VI.E of NPDES Permit No. ILR10E858.

61. Part IV.D.4.d of NPDES Permit No. ILR10E858 provides as follows:

Part IV Storm Water Pollution Prevention Plans

* * *

D. Contents of plan

* * *

4. Inspections

* * *

d. The permittee shall complete and submit within 5 days an "Incident of Noncompliance" (ION) report for any violation of the storm water pollution prevention plan observed during an inspection conducted, including those not required by the Plan. Submission shall be on forms provided by the Agency and include specific information on the cause of noncompliance, actions which were taken to prevent any further causes of noncompliance, and a statement detailing any environmental impact which may have resulted from the noncompliance.

62. Respondents Alden Bennett and Bloomingdale Horizon I failed to submit ION reports to the Illinois EPA within five (5) days of violations of the SWPPP, including failures to implement practices necessary to reduce the pollutants in storm water discharges associated with

the construction site, as observed by the Illinois EPA during its inspections of the Site on November 1, 2006; March 22, 2007; and May 29, 2007.

63. By failing to implement practices necessary to reduce the pollutants in storm water discharges associated with the construction site; to make available inspection reports and a complete copy of the SWPPP on-Site; and to submit ION reports to the Illinois EPA for its violations of the SWPPP in a timely manner, Respondents Alden Bennett and Bloomingdale Horizon I violated Part IV.B; Part IV.D; and Part VI.E of NPDES Permit No. ILR10E858.

64. By violating the terms and conditions of the NPDES permit covering the Site, Respondent Alden Bennett also violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2006), and Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, ALDEN BENNETT CONSTRUCTION COMPANY, for the following relief:

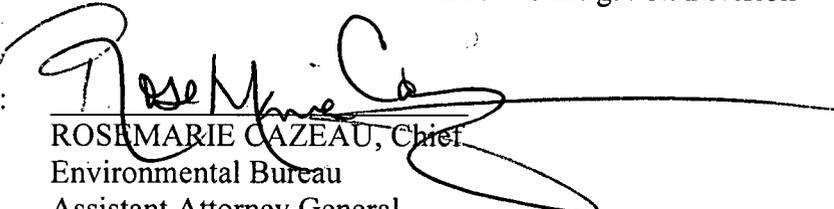
1. Authorizing a hearing in this matter at which time Respondents will be required to answer the allegations herein;
2. Finding that Respondents have violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2006) and 35 Ill. Adm. Code 309.102(a);
3. Ordering Respondents to cease and desist from any further violations of Section 12(f) of the Act, 415 ILCS 5/12(f) (2006), and 35 Ill. Adm. Code 309.102(a);
4. Assessing a civil penalty against Respondents of Ten Thousand Dollars (\$10,000.00) for each day of each violation of Section 12(f) of the Act, 415 ILCS 5/12(f) (2006), and 35 Ill. Adm. Code 309.102(a);

5. Ordering Respondents to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f), including attorney, expert witness, and consultant fees expended by the State in pursuit of this action; and

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

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

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

BY: 
ROSEMARIE CAZEAU, Chief
Environmental Bureau
Assistant Attorney General

OF COUNSEL
ANDREW ARMSTRONG
Assistant Attorney General
Environmental Bureau
69 West Washington Street, 18th Floor
Chicago, Illinois 60602
(312) 814-0660

CERTIFICATE OF SERVICE

I, ANDREW ARMSTRONG, an Assistant Attorney General, do certify that I caused to be served this 14th day of July, 2008, the foregoing Notice of Filing and Complaint upon the persons listed on the attached Service List by placing true and correct copies of each in an envelope, first class postage prepaid, and depositing same with the United States Postal Service at 69 West Washington Street, Chicago, Illinois, at or before the hour of 5:00 p.m.



ANDREW ARMSTRONG