

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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CLERK'S OFFICE

SEP 23 2008

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,

Complainant,

vs.

CITY OF COFFEEN,
an Illinois municipal corporation,

Respondent.

PCB No. 08-102
(Enforcement)

NOTICE OF FILING

To: John E. Evans
Attorney at Law
McPhail & Evans, P.C.
106 E. Wood Street
Hillsboro, IL 62049

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 FIRST AMENDED COMPLAINT, a copy of which is attached hereto and herewith served upon you.

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: September 19, 2008

CERTIFICATE OF SERVICE

I hereby certify that I did on September 19, 2008, send by First Class 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 and FIRST AMENDED COMPLAINT

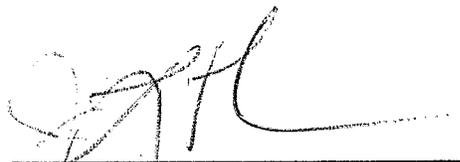
To: John E. Evans
Attorney at Law
McPhail & Evans, P.C.
106 E. Wood Street
Hillsboro, IL 62049

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

A copy was also sent by First Class Mail with postage thereon fully prepaid to:

Carol Webb
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
Springfield, IL 62794



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,)
)
 v.)
)
 CITY OF COFFEEN,)
 an Illinois municipal corporation,)
)
 Respondent.)

PCB NO. 08-102
(Enforcement)

FIRST AMENDED COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN,
Attorney General of the State of Illinois, complains of Respondent, CITY OF COFFEEN,
as follows:

COUNT I

NPDES REPORTING VIOLATIONS

1. This Count 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. The Respondent, City of Coffeen ("Coffeen" or "City"), is a municipal corporation in Montgomery County, Illinois. The City serves approximately seven hundred six residents. The City maintains its own waste water treatment plant (WWTP). Dale Nowlan is the mayor for the City and he may be reached at P.O. Box 211, Coffeen, Illinois 62017.

5. The City operates its WWTP under the terms of National Pollutant Discharge Elimination System ("NPDES") Permit Number ILG580243. The permit in effect for most of the relevant period was issued on December 11, 2002, and effective between January 1, 2003 and December 31, 2007. The permit has not been reissued and the facility continues to operate under the terms and conditions of the previous permit.

6. On April 26, 2005, the Illinois EPA inspected the City's WWTP. The inspector met with the plant operator, Steve Segrest.

7. Section 12(a) and (f) of the Act, 415 ILCS 5/12(a)(f)(2006) provides 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.

* * *

(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.

* * *

8. Section 305.102(b) of the Board's regulations, 35 Adm. Code 305.102(b) provides as follows: "b) Every holder of an NPDES (National Pollutant Discharge Elimination System) permit is required to comply with the monitoring, sampling, recording and reporting requirements set forth in the permit and this Chapter."

9. The Respondents' NPDES Permit No. ILG580243 provides, in pertinent part as follows:

SPECIAL CONDITION 8. The Permittee shall record monitoring results on DMR forms using one such form for each discharge each month. In the event that no discharge occurs during the monthly reporting period, the DMR form shall be submitted with "no discharge" indicated. The completed DMR form shall be submitted monthly to the IEPA, no later than the 15th of the following month....

10. The Respondents' NPDES Permit No. ILG580243 provides in pertinent part as follows:

STANDARD CONDITION 12(d). Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.

11. The Respondent, City of Coffeen, has failed to submit the Discharge Monitoring Reports (DMRs) as required by the NPDES permit, itemized as follows:

DMR	Due Date	Received Date
March 2003	4/15/03	Not received
April 2003	5/15/00	Not received
September 2005	10/15/05	Not received
October 2005	11/15/05	Not received
January 2006	2/15/06	Not received
February 2006	3/15/06	Not received
March 2006	4/15/06	Not received
April 2006	5/15/06	Not received
May 2006	6/15/06	Not received
June 2006	7/15/06	Not received
July 2006	8/15/06	Not received
August 2006	9/15/06	Not received
January 2007	2/15/07	Not received
August 2007	9/15/07	Not received
September 2007	10/15/07	Not received
October 2007	11/15/07	Not received
November 2007	12/15/07	Not received
April 2008	5/15/08	Not received
May 2008	6/15/08	Not received

12. The Respondent, City of Coffeen, has failed to timely submit the Discharge Monitoring Reports as required by the NPDES permit, itemized as follows:

DMRs	Due Date	Received Date
May 2003	6/15/03	10/27/05
June 2003	7/15/03	10/27/05
July 2003	8/15/03	10/27/05
August 2003	9/15/03	10/31/05
September 2003	10/15/03	10/31/05
October 2003	11/15/03	10/31/05
November 2003	12/15/03	10/31/05
December 2003	1/15/04	10/31/05
January 2004	2/15/04	10/31/05
February 2004	3/15/04	10/31/05
March 2004	4/15/04	10/26/05
April 2004	5/15/04	10/26/05
May 2004	6/15/04	10/26/05
June 2004	7/15/04	10/31/05
July 2004	8/15/04	10/31/05
August 2004	9/15/04	10/31/05
September 2004	10/15/04	11/3/05
October 2004	11/15/04	11/3/05
November 2004	12/15/04	11/3/05
December 2004	1/15/05	11/3/05
January 2005	2/15/05	11/3/05
February 2005	3/15/05	11/3/05
March 2005	4/15/05	11/3/05
April 2005	5/15/05	11/3/05
May 2005	6/15/05	11/3/05
June 2005	7/15/05	11/3/05

DMRs	Due Date	Received Date
July 2005	8/15/05	11/3/05
August 2005	9/15/05	11/3/05
November 2005	1/15/05	1/11/07
December 2005	1/15/05	1/11/07
September 2006	10/15/06	1/11/07
October 2006	11/15/06	1/11/07
December 2006	1/15/07	1/11/07
November 2006	12/15/06	1/11/07
December 2007	1/15/08	2/6/08
January 2008	2/15/08	3/5 /08
February 2008	3/15/08	5/14/08
March 2008	4/15/08	5/15/08

13. From at least April 2003 until the present day, the Respondent has failed to submit or to timely submit some DMRs as required by Special Condition 8 and Standard Condition 12(d) of the NPDES Permit in violation of 35 Ill. Adm. Code 305.102(b).

14. By violating 35 Ill. Adm. Code 305.102(b), Respondent has violated Section 12(a) and (f) of the Act, 415 ILCS 5/12(a)(f)(2006).

15. These violations have occurred repeatedly since at least April 2003.

PRAYER FOR RELIEF

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

- 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

FAILURE TO SAMPLE

1. Complainant realleges and incorporates herein by reference paragraphs 2, 4-12 of the above Count I as paragraphs 1-10 of this Count II.

11. This Count is brought by the Attorney General 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).

12. According to the DMRs eventually received by the Illinois Environmental Protection Agency, the Respondent failed to collect samples as listed below:

DATE	INFLUENT SAMPLE	EFFLUENT SAMPLE
August 2005	Not taken	

July 2005	Not taken	
June 2005	Not taken	
May 2005	Not taken	
April 2005	Not taken	
March 2005	Not taken	Not taken
February 2005	Not taken	
January 2005	Not taken	
December 2004	Not taken	
November 2004	Not taken	Not taken
October 2004	Not taken	
September 2004	Not taken	
August 2004	Not taken	
July 2004	Not taken	
June 2004	Not taken	Not taken
February 2004	Not taken	
January 2004	Not taken	
November 2003	Not taken	
October 2003	Not taken	Not taken
August 2003	Not taken	

13. NPDES Permit No. ILG580243 provides, under "Effluent Limitations, Monitoring, and Reporting," that "grab samples" will be taken once a month to ascertain concentrations of various contaminants in the effluent stream.

14. NPDES Permit No. ILG580243 states, under "Influent Monitoring and Reporting," that "Influent BOD₅ and Suspended Solids shall be sampled at least once per month as a composite sample....Flows shall be reported as a monthly average and

daily maximum on the DMR's."

15. By failing to take the required samples as listed above, the Respondent has violated the terms of NPDES Permit No. ILG580243 and Section 305.102(b) of the Board's regulations, 35 Ill. Adm. Code Section 305.102(b).

16. By violating 35 Ill. Adm. Code 305.102(b), and its NPDES Permit, Respondent has violated Section 12(f) of the Act, 415 ILCS 5/12(f)(2006).

17. These violations have occurred repeatedly since at least August 2003.

PRAYER FOR RELIEF

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

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 III

REPORTING VIOLATIONS

1. Complainant realleges and incorporates herein by reference paragraphs 2, 4-12 of the above Count I as paragraphs 1-10 of this Count III.

11. This Count is brought by the Attorney General 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).

12. Section 18 of the Act, 415 ILCS 5/18(2006) provides in pertinent part as follows:

(a) No person shall:

- * * *
- (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.
- * * *

13. Section 19 of the Act, 415 ILCS 5/19(2006), provides as follows:

Owners or official custodians of public water supplies shall submit such samples of water for analysis and such reports of operation pertaining to the sanitary quality, mineral quality, or adequacy of such supplies as may be requested by the Agency. Such samples and reports shall be submitted within 15 days after demand by the Agency.

14. Section 611.831 of the Board's Public Water Supplies Regulations, 35 Ill.

Adm. Code 611.831, provides as follows:

Within 30 days following the last day of the month, each CWS supplier must submit a monthly operating report to the Agency on forms provided or approved by the Agency.

15. Section 653.605 of the Board's Public Water Supplies Regulations, 35 Ill.

Adm. Code 653.605, provides as follows:

- a) A copy of the daily operating report records signed by the certified operator or registered person in responsible charge shall be submitted to the Illinois Environmental Protection Agency each month as required by 35 Ill. Adm. Code 606.101. These operating reports shall show:
 - 1) amount of water pumped;
 - 2) chlorine chemical used;
 - 3) amount of chlorine chemical fed;
 - 4) calculated chlorine dosage; and
 - 5) residual chlorine test results.
- b) An individual set of records shall be maintained for each installation when more than one source of water with separate chlorination equipment is used.
- c) A copy of the daily operating report shall be maintained by the official custodian of the community water supply.

18. Following a review of its records, the Illinois EPA discovered that the Respondent failed to submit monthly operating reports reflecting the daily amounts of chemicals fed and volumes of water pumped for March 2008, April 2008, and May 2008.

19. By failing to submit monthly operating reports for the months of March, April and May 2008, the Respondent has violated Sections 18 and 19 of the Act, 415

ILCS 5/19 (2006) and Sections 611.831 and 653.605 of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 611.831 and 653.605 and therefore violated Section 18 and 19 of the Act, 415 ILCS 5/18, 19 (2006).

23. These violations have been committed knowingly or repeatedly and will continue unabated unless and until enjoined by this Court.

PRAYER FOR RELIEF

WHEREFORE, the Complainant, People of the State of Illinois, respectfully requests that this Court grant the following relief:

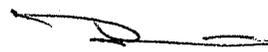
- A. Find that the CITY OF COFFEEN has violated Sections 611.831 and 653.605 of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 611.831 and 653.605, and Sections 18 and 19 of the Act, 415 ILCS 5/18 and 19 (2006);
- B. Permanently enjoin the Respondent from further violations of the Act and associated regulations;
- C. Assess against the Respondent a monetary penalty of up to fifty thousand dollars (\$50,000) for each violation and up to an additional ten thousand dollars (\$10,000) for each day that the violation has continued; and
- D. Grant such other and further relief as this Court deems 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: 9/18/08

