

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
LISA MADIGAN, Attorney General)	
of the State of Illinois,)	
)	
Complainant,)	
)	
vs.)	PCB No. 09-
)	(Enforcement - Water)
VILLAGE OF ROCKTON,)	
an Illinois municipal,)	
)	
Respondent.)	

NOTICE OF FILING

TO: Dale Adams
Village President
Village of Rockton
110 East Main Street
Rockton, Illinois 61072

Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph Street, Ste. 11-500
Chicago, Illinois 60601

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
69 W. Washington St., 18th Flr.
Chicago, IL 60602
(312) 814-3816

DATE: April 30, 2009

THIS FILING IS SUBMITTED ON RECYCLED PAPER

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
ex rel. LISA MADIGAN, Attorney)
General of the State of Illinois,)
)
Complainant,)

v.)

No. PCB No. 09-
(Enforcement - Water)

VILLAGE OF ROCKTON,)
an Illinois municipal corporation,)
)
Respondent.)

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* 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, VILLAGE OF ROCKTON, an Illinois municipal corporation, as follows:

COUNT I

CAUSE, THREATEN OR ALLOW WATER POLLUTION

1. This Complaint is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS *ex rel.* 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 Section 31 of the Illinois Environmental Protection Act ("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 charged, *inter alia*, with the duty of enforcing the Act. The Illinois EPA is further charged with the duty to abate violations of the

National Pollutant Discharge Elimination System ("NPDES") Permit Program under the Federal Clean Water Act ("CWA"), 33 U.S.C. §1342(b)(7).

3. At all times relevant to the Complaint, Respondent, Village of Rockton ("Rockton"), was and is an Illinois municipal corporation duly incorporated under the Illinois Municipal Code, 65 ILCS 5/1-1-3 (2006). Rockton is located twelve miles north of Rockford, Illinois in Winnebago County and has a population of 5,296.

4. Rockton owns and operates a waste water treatment plant ("WWTP") located at 718 West Union Street, Rockton, Illinois, Winnebago County, which operates under NPDES Permit No. IL0030791. The NPDES permit was issued on September 19, 2004, and will expire on September 30, 2009. The WWTP operations include a lift station—River Street lift station located along the Rock River in Rockton.

5. The River Street lift station pumps untreated sewage from local residents to Rockton's WWTP. The receiving waters for Rockton's effluent discharge is the Rock River.

6. On July 23, 2007, the Illinois EPA Bureau of Water, Rockford Regional Office received a complaint from an employee of the Rockton hydroelectric plant of a sewage discharge to the Rock River from the River Street lift station.

7. The Complainant had in turn received a discharge report from a fisherman who had been boating on the Rock River. The Illinois EPA also received a report about the discharge of sewage from the Chief Operator of the Rockton WWTP.

8. On July 23, 2007, the Illinois EPA inspected both the Rockton hydroelectric plant and the River Street lift station.

9. The Illinois EPA observed wet paper, fecal matter and other sewage debris below the 8-inch diameter bypass overflow on the bank of the Rock River at the base of the lift station overflow discharge point.

10. The Illinois EPA also observed that the pumps at the River Street lift station were plugged with discarded clothing that wound around the pump impellers making the pumps ineffective. The conduit for the telephone line for the automatic alarm dialer system had also been damaged and the line disconnected thereby making the telephone alarm system inoperable. The lift station had no fencing around it to limit access to the equipment.

11. On July 26, 2007, the Illinois EPA re-inspected the lift station and observed that the pumps had been cleaned and restored to full service and that the alarm system telephone line had been reinstalled in a heavy pipe conduit as was the conduit for the float pumps. All four lift station control floats were replaced with new floats.

12. The Illinois EPA also observed that the alarm light and horn were moved and reinstalled on a metal utility pole where they could be observed from the street and nearby residence.

13. On July 27, 2007, the Illinois EPA received a written notice of noncompliance from Rockton's engineers regarding the sewage discharge at the River Street lift station.

14. On September 13, 2007, the Illinois EPA sent to Rockton a Violation Notice ("VN") pursuant to Section 31(a)(1) of the Act, 415 ILCS 5/31(a)(1) (2006).

15. On October 1, 2007, Rockton responded to the VN and proposed its Compliance Commitment Agreement ("CCA").

16. On November 21, 2007 the Illinois EPA rejected Rockton's CCA.

17. On April 21, 2008, the Illinois EPA sent to Rockton a Notice of Intent to Pursue Legal Action pursuant to Section 31(b) of the Act, 415 ILCS 5/31(b) (2006).

18. On June 17, 2008, the Illinois EPA met with Rockton to discuss the violations.

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

20. Section 3.315 of the Act, 415 ILCS 5/3.315 (2006), provides as follows:

"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.

21. Rockton, a municipal corporation, is a "person" as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2006).

22. Section 3.165 of the Act, 415 ILCS 5/3.165 (2006), provides as follows:

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

23. The untreated sewage which discharged into Rock River is a "contaminant," as that term is defined by Section 3.165 of the Act.

24. Section 3.545 of the Act, 415 ILCS 5/3.545 (2006), provides 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 likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety, or welfare, or domestic, commercial,

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

25. The raw, untreated sewage which discharged into Rock River constitutes "water pollution," as that term is defined by Section 3.545 of the Act, 415 ILCS 5/3.545 (2006).

26. Section 3.550 of the Act, 415 ILCS 5/3.550 (2006), provides 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 the State.

27. Rock River is a water of the State, as that term is defined in Section 3.550 of the Act.

28. By allowing untreated sewage to discharge into Rock River, a water of the State, Respondent caused, threatened or allowed the discharge of a contaminant, untreated sewage, into the environment.

29. By causing, threatening or allowing the discharge of untreated sewage, "contaminants," to discharge into Rock River, a water of the State, Respondent caused, threatened or allowed water pollution in Illinois, in violation of 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 in favor of Complainant and against Respondent with respect to this Count I:

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

2. Finding that Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a)(2006);
3. Ordering Respondent to cease and desist from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a)(2006);
4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against Respondent for each violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2006), and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) per day for each day during which Respondent continues to be in violation of Section 12(a) of the Act;
5. Ordering Respondent to pay all costs 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

FAILURE TO PROVIDE A RELIABLE ALARM SYSTEM

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

30. Section 306.102(a) and (b) of the Illinois Pollution Control Board Water Pollution Regulations, 35 Ill. Adm. Code 306.102(a) and (b), titled, Systems Reliability, provides as follows:

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

- b) Spills: All reasonable measures, including where appropriate the provision of catchment areas, relief vessels, or entrapment dikes, shall be taken to prevent any spillage of contaminants from causing water pollution.

31. Rockton failed to provide a reliable alarm system to warn of problems at the lift station.

32. By failing to provide a reliable alarm system at the lift station, Rockton violated 35 Ill. Adm. Code 306.102(a) and (b) thereby, also violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2006).

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

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

2. Finding that Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2006), and 35 Ill. Adm. Code 306.102(a) and (b);

3. Ordering Respondent to cease and desist from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2006), and 35 Ill. Adm. Code 306.102(a) and (b);

4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against Respondent for each violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2006), and 35 Ill. Adm. Code 306.102(a) and (b), and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day during which Respondent continues to be in violation of Section 12(a) of the Act and 35 Ill. Adm. Code 306.102(a);

5. Ordering Respondent to pay all costs including attorney, expert witnesses 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 CONTROL OVERFLOW

1-29. Complainant realleges and incorporates by reference herein paragraphs 1 through 29 of Count I as paragraphs 1 through 29 of this Count III.

30. Section 306.304 of the Illinois Pollution Control Board Water Pollution Regulations, 35 Ill. Adm. Code 306.304, titled, Overflows, provides as follows:

Overflows from sanitary sewers are expressly prohibited.

31. On July 23, 2007, a sanitary sewer overflow occurred at the River Street lift station in Rockton, Illinois, Winnebago County.

32. By allowing sanitary sewer to occur at the River Street lift station, Respondent violated 35 Ill. Adm. Code 306.304, thereby also violating Section 12(a) of the Act, 415 ILCS 5/12(a) (2006).

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

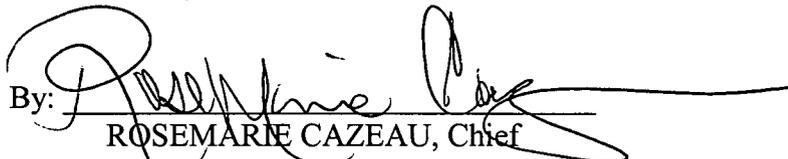
1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;

2. Finding that Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2006), and 35 Ill. Adm. Code 306.304;

3. Ordering Respondent to cease and desist from further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2006), and 35 Ill. Adm. Code 306.304;
4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against Respondent for each violation of Section 12(a) of the Act, 415 ILCS 5/12/(a) (2006), and 35 Ill. Adm. Code 306.304 and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day each violation occurred;
5. Ordering Respondent to pay all costs 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.

PEOPLE OF THE STATE OF ILLINOIS,
ex rel. LISA MADIGAN, Attorney
General of the 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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CERTIFICATE OF SERVICE

I, ZEMEHERET BEREKET-AB, an Assistant Attorney General, do certify that I caused to be served on this 30th day of April, 2009, the foregoing Complaint, Notice of Filing, and Certificate of Service, upon the persons listed on said Notice by placing same in an envelope bearing sufficient postage with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois.



ZEMEHERET BEREKET-AB