

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB NO.
)	(Enforcement)
CITY OF CHARLESTON,)	
an Illinois municipal corporation,)	
)	
Respondents.)	

NOTICE OF ELECTRONIC FILING

To: See Attached Service List

PLEASE TAKE NOTICE that on June 9, 2010, I electronically filed with the Clerk of the Pollution Control Board of the State of Illinois, a COMPLAINT and ENTRY OF APPEARANCE, copies of which are 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 (2008), 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:



CHRISTINE ZEIVEL
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: June 9, 2010

CERTIFICATE OF SERVICE

I hereby certify that I did on June 9, 2010, cause to be served by Certified Mail, Return Receipt Requested, with postage thereon fully prepaid, by depositing in a United States Post Office Box in Springfield, Illinois, a true and correct copy of the following instruments entitled NOTICE OF ELECTRONIC FILING, COMPLAINT and ENTRY OF APPEARANCE upon the persons listed on the Service List.



CHRISTINE ZEIVEL
Assistant Attorney General

This filing is submitted on recycled paper.

SERVICE LIST

Mayor John Inyart
City of Charleston
520 Jackson Avenue
Charleston, IL 61920

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
vs.)	PCB No.
)	(Enforcement)
CITY OF CHARLESTON,)	
an Illinois municipal corporation,)	
)	
Respondent.)	

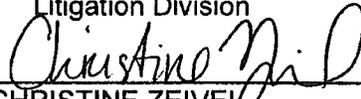
ENTRY OF APPEARANCE

On behalf of the Complainant, PEOPLE OF THE STATE OF ILLINOIS, CHRISTINE ZEIVEL, Assistant Attorney General of the State of Illinois, hereby enters her 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: 
CHRISTINE ZEIVEL
Environmental Bureau
Assistant Attorney General

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Springfield, Illinois 62706
217/782-9031
Dated: June 9, 2010

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB No.
)	(Enforcement - Water)
CITY OF CHARLESTON,)	
an Illinois municipal corporation,)	
)	
Respondent.)	

COMPLAINT

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

COUNT I
WATER POLLUTION

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 (2008).

2. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly under Section 4 of the Act, 415 ILCS 5/4 (2008), and charged, *inter alia*, with the duty of enforcing the Act.

3. The City of Charleston ("Respondent") is, and was, at all times relevant to this Complaint, an Illinois municipal corporation in good standing authorized to do business in the State of Illinois.

4. The Respondent operates a wastewater treatment plant ("WWTP") located at 750

West Madison Avenue in Charleston, Illinois. The WWTP discharges treated municipal sewage to Cassell Creek pursuant to National Pollutant Discharge Elimination System ("NPDES") Permit No. IL0021644. Cassell Creek is a tributary to Riley Creek, which is a tributary to Kickapoo Creek.

5. Under the terms of Respondent's NPDES permit, the dissolved oxygen limit for effluent shall not be less than 6 mg/L.

6. On September 17, 2005, the Respondent reported a direct discharge of sewage from its main pump station into Town Branch Creek, a branch of Cassell Creek, to the Illinois EPA. Within five hours, an estimated 600,000 gallons of untreated sewage entered the Town Branch Creek.

7. On September 19, 2005, the Illinois EPA conducted an inspection of the Respondent's WWTP and its receiving waters. Dead fish were observed in Town Branch Creek, Cassell Creek and Riley Creek. Samples taken from Cassell Creek, Riley Creek and Kickapoo Creek revealed dissolved oxygen levels of 6.82 mg/L (Cassell Creek upstream), 3.11 mg/L (Cassell Creek downstream), 3.59 mg/L (Riley Creek) and 8.74 mg/L (Kickapoo Creek).

8. On October 12, 2005, the Illinois Department of Natural Resources reported that the fish kill stretched for almost two miles and totaled approximately 29,988 fish. Dollar value of the fish kill was estimated at \$5,738.00.

9. On April 6, 2006, the Respondent reported to the Illinois EPA that two of its pump stations had experienced overflows. The Reynolds Drive pump station discharged through its overflow manhole into an intermittent stream that enters Kickapoo Creek for over four hours and the diversion structure prior to the main pump station discharged into the Town Branch

Creek for over seven hours.

10. On December 22, 2006, the Respondent reported a combined sewer overflow at its diversion structure prior to the main pump station to the Illinois EPA. An estimated 2.25 million gallons of storm water/wastewater entered the Town Branch Creek during the overflow.

11. On January 19, 2007, the Respondent reported that it experienced a discharge at its diversion structure prior to the main pump station on January 15, 2007 to the Illinois EPA. An estimated 1.03 million gallons of storm water/wastewater entered the Town Branch Creek over a seven hour period.

12. On February 21, 2007, the Respondent reported that it experienced a discharge at its Stoner Drive pump station on February 17, 2007.

13. On February 26, 2007, the Respondent reported that it experienced an overflow at its the diversion structure prior to the main pump station on February 24, 2007.

14. On April 11, 2008, the Respondent reported a collection system overflow at its preliminary treatment units.

15. On May 30, 2008, the Respondent reported a sanitary sewer overflow at its main pump station with discharge into the Town Branch Creek.

16. On June 7, 2008, the Respondent reported a sanitary sewer overflow at its Reynolds lift station.

17. On July 1, 2008, the Respondent reported that it experienced a collection system overflow at its Stoner Street lift station on June 30, 2008.

18. On August 26, 2008, the Respondent reported a sanitary sewer overflow near a manhole located between 14th and 15th Streets from a twelve inch sewer that runs under an

unnamed tributary to Cassell Creek.

19. On February 11, 2009, the Respondent experienced a collection system overflow at its Reynolds lift station and a second overflow from Outfall Number 002 for a duration of at least three hours.

20. On October 21, 2009, the Respondent reported that it experienced an overflow of primary anaerobic sludge/foam to the facility's stormwater collection system on October 19, 2009.

21. Section 12 of the Act, 415 ILCS 5/12 (2008), 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 as to create a water pollution hazard.

* * *

22. Section 3.545 of the Act, 415 ILCS 5/3.545 (2008), 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, or agricultural,

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

23. Section 309.102(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a), provides:

NPDES Permit Required

- a) Except as in compliance with the provision of the Act, Board regulations, and the CWA, 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.

24. Town Branch Creek, Cassell Creek and Riley Creek are "waters" of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2008), 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.

25. The Respondent is a "person" as that term is defined under Section 3.315 of the Act, 415 ILCS 5/3.315 (2008), as follows:

"Person" is any individual, partnership, copartnership, 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, agency or assigns.

26. The Respondent's discharge is a "contaminant" as that term is defined by Section 3.165 of the Act, 415 ILCS 5/3.165 (2008), as follows:

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

27. The Respondent's discharge is "wastewater" as that term is defined by Section

301.425 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 301.425, as follows:

"Wastewater" means sewage, industrial waste, or other waste, or any combination of these, whether treated or untreated, plus any admixed land runoff.

28. Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code

302.203, provides:

Offensive Conditions

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

29. Section 304.106 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code

304.106, provides:

Offensive Discharges

In addition to the other requirements of this Part, no effluent shall contain settleable solids, floating debris, visible oil, grease, scum or sludge solids. Color, odor and turbidity must be reduced to below obvious levels.

30. Section 306.304 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code

306.304, provides:

Overflows

Overflows from sanitary sewers are expressly prohibited.

31. By causing, or allowing the discharge of contaminants and wastewater into the environment so as to cause water pollution resulting in a fish kill, the Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2008) and Section 309.102(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a).

32. By depositing contaminants upon the land in such manner and place so as to create a water pollution hazard, the Respondent violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2008).

33. By discharging contaminants into waters of the State containing sludge or bottom deposits, floating debris, color or turbidity of other than natural origin, the Respondent violated Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203.

34. By discharging untreated wastewater containing settleable solids, floating debris, or sludge solids, the Respondent violated Section 304.106 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.106.

35. By causing or allowing sewer overflows, the Respondent violated Section 306.304 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 306.304.

PRAYER FOR RELIEF

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

- A. Find that the Respondent, CITY OF CHARLESTON, has violated the Act and regulations as herein alleged;
- B. Order the Respondent to cease and desist 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 (\$10,000) dollars for each day that each violation has continued;
- D. Award the Complainant its costs and reasonable attorney's fees; and

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

COUNT II
OPERATIONAL VIOLATIONS

1- 20. Complainant realleges and incorporates herein by reference paragraphs 1 through 20 of Count I as paragraphs 1 through 20 of this Count II.

21. Section 306.102 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 306.102, provides:

Systems Reliability

- 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.

22. By failing to construct and operate its WWTP so as to minimize violations of applicable standards during flooding, adverse weather, equipment failure, or maintenance, the Respondent violated Section 306.102(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 306.102(a).

23. By failing to take all reasonable measures to prevent spillage of contaminants from causing water pollution, the Respondent violated Section 306.102(b) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 306.102(b).

PRAYER FOR RELIEF

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

- A. Find that the Respondent, the CITY OF CHARLESTON, has violated the Act and regulations as herein alleged;
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- D. Award the Complainant its costs and reasonable attorney's fees; and
- E. Grant such other relief as the Board may deem appropriate.

COUNT III
NPDES PERMIT VIOLATIONS

1-20. Complainant realleges and incorporates herein by reference paragraphs 1 through 20 of Count I as paragraphs 1 through 20 of this Count III.

21. Section 12(f) of the Act, 415 ILCS 5/12(f) (2008), 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.

22. Section 304.141(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.141(a), provides:

- 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.

23. Section 309.102(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a), provides:

- a) Except as in compliance with the provisions of the Act, Board regulations, and the CWA, 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.

24. By discharging contaminants into waters of the state in violation of its NPDES permit, the Respondent violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2008), and Section 309.102(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a).

25. By discharging contaminants in its effluent in excess of the standards and limitations set forth in its NPDES permit, the Respondent violated Section 304.141(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.141(a).

PRAYER FOR RELIEF

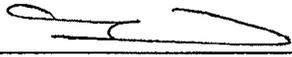
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- D. Award the Complainant its costs and reasonable attorney's fees; and
- E. Grant such other relief as the Board may deem appropriate.

Respectfully submitted,

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: 
THOMAS DAVIS, Chief
Environmental Bureau
Assistant Attorney General

Of Counsel
CHRISTINE ZEIVEL
500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: 6/08/10