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SEP 02 2004

STATE OF ILLINOIS
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

August 30, 2004

PCB0544

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

Re: ***People v. Roger Kuberski, d/b/a Mount Vernon Quality Times, Inc.***

Dear Clerk Gunn:

Enclosed for filing please find the original and ten copies of a NOTICE OF FILING, COMPLAINT and APPEARANCE in regard to the above-captioned matter. Please file the originals and return file-stamped copies of the documents to our office in the enclosed self-addressed, stamped envelope.

Thank you for your cooperation and consideration.

Very truly yours,

A handwritten signature in cursive script that reads "Jennifer Bonkowski".

Jennifer Bonkowski
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706
(217) 782-9031

JB/pp
Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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SEP 02 2004

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF)
ILLINOIS,)
)
Complainant,)
)
vs.)
)
ROGER KUBERSKI, d/b/a)
MOUNT VERNON QUALITY TIMES, INC.,)
)
Respondent.)

PCB No. 05-44
(Enforcement)

NOTICE OF FILING

To: Roger Kuberski
d/b/a Mount Vernon Quality times, Inc.
9746 E. Illinois Highway 15
Mt. Vernon, IL 62864

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 (2002), to correct the pollution alleged in the Complaint filed in this case.

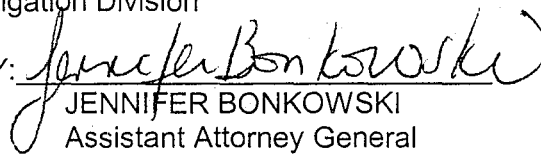
Respectfully submitted,

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:



JENNIFER BONKOWSKI
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: August 30, 2004


CERTIFICATE OF SERVICE

I hereby certify that I did on August 30, 2004, 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: Roger Kuberski
d/b/a Mount Vernon Quality times, Inc.
9746 E. Illinois Highway 15
Mt. Vernon, IL 62864

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


Jennifer Bonkowski
Assistant Attorney General

This filing is submitted on recycled paper.

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STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.)
)
 ROGER KUBERSKI, d/b/a)
 MOUNT VERNON QUALITY TIMES, INC.)
)
 Respondent.)

PCB NO. 05-44
(Enforcement)

APPEARANCE

I, JENNIFER BONKOWSKI, Assistant Attorney General of the State of Illinois, hereby file my appearance in this proceeding on behalf of the Complainant, PEOPLE OF THE STATE OF ILLINOIS.

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: *Jennifer Bonkowski*
JENNIFER BONKOWSKI,
Assistant Attorney General

JENNIFER BONKOWSKI
500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: 8/30/04

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SEP 02 2004

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.)
)
 ROGER KUBERSKI, d/b/a)
 MOUNT VERNON QUALITY TIMES, INC.)
)
)
 Respondent.)

PCB NO. 05-44
(Enforcement)

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, ROGER KUBERSKI, d/b/a MOUNT VERNON QUALITY TIMES, INC. ("QUALITY TIMES") as follows:

COUNT I
OPERATION WITHOUT AN NPDES PERMIT

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 (2002).

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 (2002), and charged, inter alia, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board ("Board").

3. The Complaint is brought pursuant to Section 31 of the Act, 415 ILCS 5/31 (2002), after providing the Respondent with notice and opportunity for a meeting with the Illinois EPA.

4. Section 12 of the Act, 415 ILCS 5/12 (2002), 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 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.

* * *

5. The Respondent is a "person" as that term is defined under Section 3.315 of the Act, 415 ILCS 5/3.315 (2002), as follows:

"Person" is any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agency or assigns.

6. Harper Creek is a "water" of the State as defined under Section 3.550 of the Act, 415 ILCS 5/3.550 (2002), as follows:

"Waters" means all accumulation 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.

7. Section 309.104(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 309.104(a), provides that:

Any permittee who wishes to continue to discharge after the expiration date of his NPDES Permit shall apply for reissuance of the permit not less than 180 days prior to the expiration date of the permit.

8. At all times relevant to this Complaint, Respondent, Roger Kuberski, has owned and managed a recreation vehicle park on Illinois State Route 15, in Jefferson County, Illinois.

9. The facility has a total of 44 camping/trailer sites, with electricity supplied to 33 sites. The community building contains toilets and a laundry with two washers and two dryers. The wastewater treatment plant consists of an Imhoff tank, sand filter, and effluent chlorination, with discharge to Harper Creek, except for in the winter (off-season) months.

10. Quality Times, an Illinois corporation incorporated on March 17, 1995, and involuntarily dissolved on August 2, 1999, and to which Roger Kuberski served as Agent and President, operated under NPDES Permit No. IL0051063, issued on September 15, 1997.

11. Said NPDES Permit expired on September 30, 2002. Respondent Kuberski did not at that time apply for reissuance of the NPDES Permit, notwithstanding the fact that he continued to own, manage, and operate the recreation vehicle park and its wastewater treatment plant.

12. On August 10, 2003, Respondent Kuberski submitted an application to renew the NPDES permit.

13. By failing to apply for reissuance of the NPDES permit prior to its expiration date, Respondent Kuberski violated Section 309.104(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 309.104(a).

14. By violating Section 309.104(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 309.104(a), and by continuing to operate the recreation vehicle park after September 30, 2002, without a current NPDES permit, Kuberski caused, threatened, or allowed the discharge of contaminants into the environment without an NPDES permit, and in doing so, violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2002).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an Order against the Respondent, ROGER KUBERSKI:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent, ROGER KUBERSKI has violated the Act and regulations as alleged herein;
- C. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2002), impose upon the Respondents a monetary penalty of not more than the statutory maximum;
- D. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2002), awarding to Complainant its costs and reasonable attorney fees; and
- E. Grant such other and further relief as the Board deems appropriate.

COUNT II **REPORTING VIOLATIONS**

1-6. Complainant realleges and incorporates herein paragraphs 1 through 6 of Count I as paragraphs 1 through 6 of this Count II.

7. Special Condition 9 of Respondent's NPDES Permit states the following:

The Permittee shall record monitoring results on Discharge Monitoring Report Forms using one such form for each outfall each month.

8-10. Complainant realleges and incorporates herein paragraphs 8 through 10 of Count I as paragraphs 8 through 10 of this Count II.

11. The Respondent failed to submit Discharge Monitoring Reports (DMRs) for the following months of operation: March through August of 2002.

12. By violating Special Condition 9 of the NPDES Permit, Kuberski caused,

threatened or allowed the discharge of any contaminant into the waters of the State in violation of any term or condition imposed by such [NPDES] permit, and in doing so, violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2002).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an Order against the Respondent, ROGER KUBERSKI:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent, ROGER KUBERSKI has violated the Act and regulations as alleged herein;
- C. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2002), impose upon the Respondents a monetary penalty of not more than the statutory maximum;
- D. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2002), awarding to Complainant its costs and reasonable attorney fees; and
- E. Grant such other and further relief as the Board deems appropriate.

COUNT III
EFFLUENT VIOLATIONS

1-6. Complainant realleges and incorporates herein paragraphs 1 through 6 of Count I as paragraphs 1 through 6 of this Count III.

7. Section 304.141 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.141, provides, in pertinent part, as follows:

NPDES Effluent Standards

- 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.

8. Section 309.102 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 309.102, provides, in pertinent part, as follows:

NPDES Permit Required

- 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.

9. Illinois is a State with delegated responsibility to enforce the Clean Water Act (33 U.S.C. 1251 et seq. (1993)) and its regulations. The Illinois EPA, pursuant to Section 39(b) of the Act, 415 ILCS 5/39(b) (2002), may issue NPDES permits containing effluent limitations for the discharge of contaminants into navigable waters on behalf of the State of Illinois. The Illinois EPA is also charged with the duty to enforce and abate violations of the NPDES permit program.

10-12. Complainant realleges and incorporates herein paragraphs 8 through 10 of Count I as paragraphs 10 through 12 of this Count III.

13. NPDES Permit No. IL0051063 established the following limitations:

<u>Parameter</u>	<u>Concentration Limit (mg/l)</u>	
	<u>Monthly Avg.</u>	<u>Daily Max.</u>
CBOD ₅	10.0	20.0
Total Suspended Solids	12.0	24.0
Ammonia Nitrogen		
April-May/Sept.-Oct.	4.1	14.7
June - August	2.9	14.7
Nov. - Feb.	4.0	12.4
March	4.0	12.4

<u>Parameter</u>	<u>Concentration Limit</u>
pH	6.0 (min.) 9.0 (max.)
Dissolved Oxygen	Not less than 6 mg/l

14. DMRs for April through June, and September of 2001; October 2002; and June through October of 2003 show that the Respondent discharged effluent beyond that permitted in its NPDES Permit, as the following table depicts (underlined numbers represent those beyond permitted limits):

Date	Total Suspended Solids (mg/l)		CBOD ₅ (mg/l)		Ammonia Nitrogen (mg/l)	
	Mo. Avg.	D. Max.	Mo. Avg.	D. Max.	Mo. Avg.	D. Max.
4/01	<u>16</u>	16	4	4	2.15	2.15
5/01	<u>20</u>	20	8	8	1.68	1.68
6/01	<u>21</u>	21	5	5	3.1	3.1
9/01	<u>31</u>	<u>31</u>	<u>16</u>	16	2.6	2.6
10/02	<u>19</u>	19	5	5	3.0	3.0
6/03	<u>16</u>	16	9	9	1.5	1.5
7/03	<u>62</u>	<u>62</u>	3	3	<u>12.6</u>	12.6
8/03	<u>41</u>	<u>41</u>	5	5	3.87	3.87
9/03	<u>27</u>	<u>27</u>	9	9	<u>6.2</u>	6.2
10/03	<u>25</u>	<u>25</u>	10	10	<u>7.5</u>	7.5

15. During, but not limited to, April through June, and September of 2001; October 2002; and June through October of 2003, the Respondent discharged effluent which exceeded the limits set forth in its NPDES Permit for total suspended solids, CBOD₅, and Ammonia Nitrogen, as evidenced by information reported on the DMRs.

16. By causing or allowing discharges of total suspended solids, CBOD₅, and Ammonia Nitrogen in excess of permitted limitations, the Respondent has violated Section 12(f)

of the Act, 415 ILCS 5/12(f) (2002), 35 Ill. Adm. Code 304.141(a) and 309.102, and NPDES Permit No. IL0051063.


PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an Order against the Respondent, ROGER KUBERSKI:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
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- E. Grant such other and further relief as the Board deems appropriate.

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
Jennifer Bonkowski
500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: 8/30/04