

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
- vs -)	PCB No. 06-
)	(Enforcement - Water)
FIRST COUNTRY HOMES, L.L.C., an)	
Illinois limited liability company,)	
)	
Respondent.)	

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 351511 *et seq.*] to correct the alleged pollution.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN
Attorney General of the State of Illinois


BY: Paula Becker Wheeler

PAULA BECKER WHEELER
Assistant Attorney General
Environmental Bureau
188 W. Randolph St., 20th Floor
Chicago, Illinois 60601
312-814-1511

DATE: May 16, 2006

CERTIFICATE OF SERVICE

I, PAULA BECKER WHEELER, an attorney, do certify that I caused to be served this 16th day of May, 2006, the foregoing Complaint and Notice of Filing upon the persons listed on said Notice, by Certified Mail and U.S. MAIL.



PAULA BECKER WHEELER
Assistant Attorney General

SERVICE LIST

Attorney for Respondent
Mr. Thomas G. Gardiner
Gardiner Koch & Weisberg
53 West Jackson Blvd.
Suite 959
Chicago, IL 60604-3849

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
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Complainant,)	
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vs.)	
)	No. PCB
)	(Enforcement - Water)
FIRST COUNTRY HOMES, L.L.C., an)	
Illinois limited liability company,)	
)	
Respondent.)	

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, FIRST COUNTRY HOMES, L.L.C., an Illinois limited liability company, as follows:

COUNT I
FAILURE TO OBTAIN A CONSTRUCTION PERMIT

1. This Complaint is brought 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 (2004).

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 (2004), 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)(2004).

3. At all times relevant to this Complaint, Respondent, First Country Homes, L.L.C., ("First Country") was and is an Illinois limited liability company in good standing, located at 25640 Jasmine Lane, Monee, Will County, Illinois.

4. At all times relevant to this Complaint, First Country was the owner and developer of approximately 30 vacant residential lots, located in Section 22, Township 34 North, Range 13 East, in Monee, Will County, Illinois, known as Country Meadows - Phase 8 ("Site").

5. On or before November 10, 2004, or a time better known to the Respondent, Respondent began construction activities on the Site for the development of Country Meadows - Phase 8, by clearing large areas of land of all vegetation and creating substantial piles of dirt.

6. On November 10, 2004, Respondent submitted a sewer construction permit application to the Illinois EPA for the Site.

7. On December 1, 2004, the Illinois EPA rejected the sewer construction permit application as incomplete. Among other deficiencies, the application was lacking all the required signatures and the permit fee had not been paid.

8. On December 1, 2004, the Respondent submitted another sewer construction permit application which was also denied because of the lack of required signatures.

9. On December 28, 2004, Respondent had completed substantial earthwork at the Site and sanitary sewers had been installed. Approximately 20 of the 30 home sites had been sold by the end of December 2004.

10. On June 8, 2005, the Illinois EPA issued an as-built and operating permit to the Village of Monee as operator for the sewer lines already in place, with hookups completed by the Defendant to the approximately 28 homes that had already been built.

11. Section 12 of the Act, 415 ILCS 5/12(2004), provides, in pertinent part, as follows:

No person shall:

- a) Cause or threaten or allow the discharge of any contaminant 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.
- b) Construct, install, or operate any equipment, facility, vessel, or aircraft of causing or contributing to water pollution, or designed to prevent water pollution of any type designated by Board regulations, without a permit granted by the Agency, or in violation of any conditions imposed by such permit.

*

*

*

12. Respondent's ownership and development of the Site is subject to the Act and the Rules and Regulations promulgated by the Illinois Pollution Control Board ("Board"). The Board's regulations for Water Pollution are found in Title 35, Subtitle C, Chapter I, of the Illinois Administrative Code ("Board Regulations for Water Pollution").

13. Section 309.202(a) of the Board Regulations for Water Pollution, 35 Ill. Adm. Code 309.202(a), provides as follows:

Construction Permits

Except for treatment works or wastewater sources which have or will have discharges for which NPDES Permits are required, and for which NPDES Permits have been issued by the Agency:

- a) No person shall cause or allow the construction of any new treatment works, sewer or wastewater source or cause or allow the modification of any existing treatment works, sewer or wastewater source without a construction permit issued by the Agency, except as provided in paragraph (b).

14. Section 3.315 of the Act, 415 ILCS 5/3.315 (2004), 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.

15. Respondent, First Country Homes, L.L.C., is a "person" as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2004).

16. From at least December 28, 2004, or at a time better

known to Respondent and continuing until June 8, 2005, when an as-built permit was issued, Respondent constructed a new sewer without a construction permit.

17. By failing to obtain a sewer construction permit prior to construction, Respondent violated Section 309.202(a) of 35 Ill. Adm. Code, thereby violating Sections 12(a) and (b) of the Act, 415 ILCS 5/12(a), and 12(b) (2004).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, FIRST COUNTRY HOMES, L.L.C., an Illinois limited liability company, on this Count I:

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

2. Finding that Respondent has violated Section 12(a) and 12(b) of the Act, 415 ILCS 5/12(a), 12(b) (2004), and Section 309.202(a) of the Board Regulations for Water Pollution, 35 Ill. Adm. Code 309.202(a);

3. Ordering the Respondent to cease and desist from any further violations of Section 12(a) and 12(b) of the Act, 415 ILCS 5/12(a), 12(b) (2004), and Section 309.202(a) of the Board Regulations for Water Pollution, 35 Ill. Adm. Code 309.202(a);

4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against Respondent for each violation of Section 12(a) of the Act, and an additional penalty of Ten Thousand

Dollars (\$10,000.00) per day for each day of each violation;

5. Ordering Respondent to pay all costs, pursuant to Section 42(f) of the Act, 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 II
FAILURE TO OBTAIN AN NPDES PERMIT

1-15. Complainant realleges and incorporates by reference herein paragraphs 1 through 15 of Count I as paragraphs 1 through 15 of this Count II.

16. Section 12(f) of the Act, 415 ILCS 5/12(f) (2004), provides 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, any 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 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.

17. Section 309.102(a) of the Board Water Pollution regulations, 35 Ill. Adm. Code 309.102(a), provides 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.

18. Storm waters from the Site discharge into the storm sewer system on the site and then into the storm sewers of the Village of Monee.

19. Section 3.550 of the Act, 415 ILCS 5/3.550 (2004), contains 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.

20. The storm sewer system of the Village of Monee is a "water" of the State of Illinois as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2004).

21. Section 3.165 of the Act, 415 ILCS 5/3.165 (2004), provides the following definition:

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

22. Silt-laden storm water is a contaminant as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2004).

23. From November 10, 2004, or at a time better known to Respondent, and continuing until January 3, 2005, Respondent threatened the discharge of contaminants from its Site to the

storm water sewer system of the Village of Monee without first obtaining a general NPDES storm water permit.

24. By threatening to allow storm water discharges from its construction Site without first obtaining coverage under a general NPDES storm water permit, Respondent violated Section 12(f) of the Act, 415 ILCS 5/12(f)(2004) and 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, FIRST COUNTRY HOMES, L.L.C., on this Count II:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Section 12(f) of the Act, 415 ILCS 5/12(f)(2004) and 35 Ill. Adm. Code 309.102(a);
3. Ordering the Respondent to cease and desist from any further violations of Section 12(f) of the Act, 415 ILCS 5/12(f)(2004) and 35 Ill. Adm. Code 309.102(a);
4. Assessing against the Respondent a civil penalty of Ten Thousand Dollars (\$10,000.00) per day for each day of each violation;
5. Ordering Respondent to pay all costs, pursuant to Section 42(f) of the Act, including attorney, expert witnesses and consultant fees expended by the State in its pursuit of this action; and

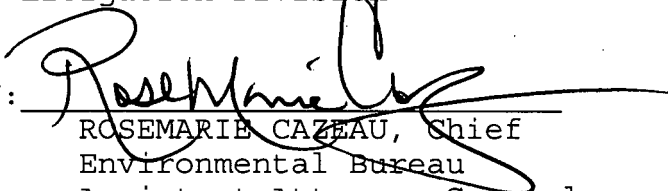
6. Granting such other relief as the Board deems
appropriate and just.

PEOPLE OF THE STATE OF ILLINOIS

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State of Illinois

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