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MAY 17 2006

STATE OF ILLINOIS
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

May 12, 2006

PCB06-174

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

Re: ***People v. Bob D. Stagner and Linda S. Stagner***

Dear Clerk Gunn:

Enclosed for filing please find the original and ten copies of a Notice of Filing, Entry of Appearance and Complaint in regard to the above-captioned matter. Please file the originals and return file-stamped copies to me in the enclosed, self-addressed envelope.

Thank you for your cooperation and consideration.

Very truly yours,

Raymond J. Callery
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706
(217) 782-9031

RJC/pp
Enclosures

RECEIVED
CLERK'S OFFICE

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD MAY 17 2006

PEOPLE OF THE STATE OF
ILLINOIS,

STATE OF ILLINOIS
Pollution Control Board

Complainant,

vs.

PCB No. 06-174
(Enforcement)

BOB D. STAGNER and
LINDA S. STAGNER, d/b/a
LB'S CAMPING & MOBILE HOME PARK,

Respondents.

NOTICE OF FILING

To: Bob D. Stagner and Linda S. Stagner
d/b/a LB's Camping & Mobile Home Park
5272 Peach Orchard Road
Sesser, IL 62884

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 (2004), to correct the pollution alleged in the Complaint filed in this case.

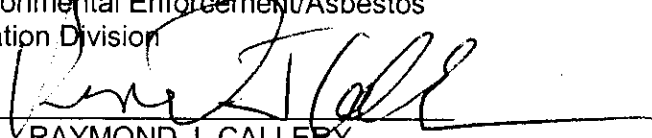
Respectfully submitted,

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:


RAYMOND J. CALLERY
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: May 12, 2006

CERTIFICATE OF SERVICE

I hereby certify that I did on May 12, 2006, 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: Bob D. Stagner
d/b/a LB's Camping & Mobile Home Park
5272 Peach Orchard Road
Sesser, IL 62884

Linda S. Stagner
d/b/a LB's Camping & Mobile Home Park
5272 Peach Orchard Road
Sesser, IL 62884

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



Raymond J. Callery
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,

vs.

BOB D. STAGNER and
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Respondent.

PCB No. *de-174*
(Enforcement)

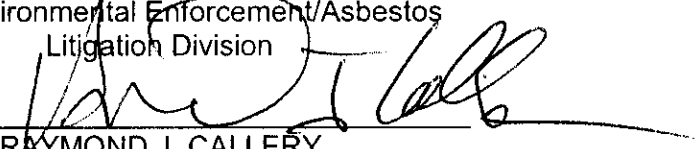
ENTRY OF APPEARANCE

On behalf of the Complainant, PEOPLE OF THE STATE OF ILLINOIS, RAYMOND J. CALLERY, Assistant Attorney General of the State of Illinois, hereby enters his 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: 
RAYMOND J. CALLERY
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: May 12, 2006

MAY 17 2006

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF
ILLINOIS,

Complainant,

v.

BOB D. STAGNER and
LINDA S. STAGNER, d/b/a
LB'S CAMPING & MOBILE HOME PARK,

Respondents.

PCB NO. 06-174
(Enforcement)

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondents, BOB D. STAGNER and LINDA S. STAGNER, d/b/a LB'S CAMPING & MOBILE HOME PARK, 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 (2004).

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 (2004), 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 (2004), after providing the Respondents with notice and the opportunity for a meeting with the Illinois EPA.

4. At all times relevant to this Complaint, the Respondents, Bob D. Stagner and Linda S. Stagner, have been the owners and operators of a facility, LB's Camping & Mobile Home Park ("LB's Camping"). The address for Respondents and for LB's Camping is 5272 Peach Orchard Road, Sesser, Franklin County, Illinois.

5. At all times relevant to this Complaint, the LB's Camping facility included both campsites and mobile home lots. A building located on the property and connected to the same sewage system was also leased out by the Respondents for the operation of a restaurant.

6. Wastewater treatment at the LB's Camping facility was originally provided by a septic tank with effluent chlorination. The septic tank had a capacity of 864 cu. ft. and filtration was provided by a sand filter approximately 32 ft. by 32 ft. for a total surface area of 1050 ft. A dosing tank was provided with a capacity of 153 gallons or 20.5 cu. ft.

7. A construction permit for an upgrade of the wastewater treatment system was issued to Respondents in July 2003. The upgrade included a dosing tank, flow division structure, chlorination/dechlorination and effluent structure, and chlorination/dechlorination equipment.

8. On December 29, 1999, Illinois EPA issued National Pollutant Discharge Elimination System ("NPDES") permit # IL0050466 (eff. January 1, 2000) to Respondents/LB's Camping. The permit had an expiration date of December 31, 2004. On July 18, 2005, Illinois EPA reissued NPDES permit # IL0050466 (eff. October 1, 2005). The reissued NPDES permit included ammonia limits.

9. LB's Camping's NPDES Permit imposes effluent concentration limitations for five-day carbonaceous biochemical oxygen demand ("CBOD₅"), total suspended solids ("TSS"), ammonia nitrogen, and fecal coliform, each of which is a "contaminant" as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2004). Discharge Monitoring Reports ("DMRs") are submitted monthly in accordance with the NPDES Permit to report the concentrations of contaminants in the effluent.

10. On May 18, 2000, Dwight Hill of the Illinois EPA's Bureau of Water, Division of Water Pollution Control, Marion Regional Office, inspected LB's Camping in response to a complaint that sewage was flowing from the facility into Andy Creek and Valier Lake.

11. Mr. Hill observed that the filters of the wastewater treatment plant ("WWTP") for LB's Camping were being bypassed and that septic tank effluent was being discharged directly to the receiving stream. Mr. Hill further observed that at the outfall and extending 30 feet downstream, the receiving stream was a gray color and contained floating sewage debris.

12. By letter dated June 5, 2000, the Illinois EPA was informed by the Franklin-Williamson Bi-County Health Department ("FWBCHD") that the nearby restaurant, owned and leased out by the Respondents and connected to the same sewage system that serves the campground, was experiencing periodic sewage back-ups.

13. On July 6, 2000, a Violation Notice ("VN") letter was sent to Respondents, citing water quality, reporting and effluent violations and failure to maintain the services of a properly certified WWTP operator. The VN letter also noted the sanitary sewer overflow that resulted from the facility's improperly operating sewage system.

14. By letter dated July 14, 2000, Jerome Kopec, the new certified operator for LB's Camping, responded to the VN letter.

15. On May 30, 2001, Mr. Hill conducted a follow-up inspection to determine if the cited violations had been resolved. He observed that the WWTP was still not functioning adequately. Mr. Hill then proceeded to the receiving stream and observed a dark gray sewage color, septic odor, foam, and debris at the outfall.

16. On October 30, 2001, the Illinois EPA sent Respondents a Notice of Intent to Pursue Violation ("NIPLA") letter citing the violations presented in the earlier VN letter.

17. On November 30, 2001, representatives of LB's Camping and Illinois EPA met for a NIPLA meeting to address the violations and potential compliance measures.

18. Respondents' permit limit for CBOD₅ was a monthly average of 10 mg./l. and a daily maximum of 20 mg./l.

19. Since May 2000, Respondents have exceeded the monthly average for CBOD₅ in at least forty-seven months and exceeded the daily maximum for CBOD₅ in at least twenty-nine months.

20. Respondents' permit limit for TSS was a monthly average of 12 mg./l. and a daily maximum of 24 mg./l.

21. Since May 2000, Respondents have exceeded the monthly average for TSS in at least thirty-six months and exceeded the daily maximum for TSS in at least thirteen months.

22. Respondents' permit limit for ammonia nitrogen ranged from a monthly average of 2.6 to monthly average of 4.0 mg./l. depending on the month and the daily maximum ranged from 4.0 to 8.0 mg./l depending on the month.

23. Since May 2000, Respondents have exceeded the monthly average for ammonia nitrogen in at least fifty-five months and exceeded the daily maximum for ammonia nitrogen in at least forty-five months.

24. Respondents' permit limit for fecal coliform was a daily maximum of 400 per ml.

25. Since May 2000, Respondents have exceeded the daily maximum for fecal coliform in at least fifty-six months.

26. Section 3.545 of the Act, 415 ILCS 5/3.545 (2004), contains 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 water harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

27. The wastewater treatment system at LB's Camping discharges to an unnamed tributary of Andy Creek and to Valier Lake. Andy Creek and Valier Lake fall within the definition of "waters" of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2004), 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.

28. Section 12(a) of the Act, 415 ILCS 5/12(a) (2004), provides:

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 other sources, or so as to violate regulations or standards adopted by the Pollution Control Board under this Act;

29. 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

.....

30. 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.

31. Section 304.120(c) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code

304.120(c), provides:

Deoxygenating Wastes

- c. No effluent whose dilution ration is less than five to one shall exceed 10 mg/l of BOD₅ or 12 mg/l of suspended solids, . . .

32. 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.

33. As observed during the Illinois EPA inspections on May 18, 2000 and May 30, 2001, the receiving waters contained floating debris and exhibited grayish color and septic odor as a result of the discharge from the facility's WWTP, in violation of 35 Ill. Adm. Code 302.203.

34. As observed during the Illinois EPA inspections on May 18, 2000 and May 30, 2001, the facility's WWTP discharged effluent containing floating debris and exhibiting noticeable color and odor, in violation of 35 Ill. Adm. Code 304.106.

35. As recorded in the facility's DMRs effluent from the WWTP for LB's Camping exceeded 10 mg/l of BOD₅ or 12 mg/l of suspended solids, in violation of 35 Ill. Adm. Code 304.120(c)

36. As reported by FWBCHD, the sewer/collection system for LB's Camping backed up into the restaurant located at the campground, in violation of 35 Ill. Adm. Code 306.304.

37. By violating the Board's Water Pollution Regulations, the Respondents have also violated Section 12(a) of the Act, 415 ILCS 5/12(a)(2004).

38. By causing, threatening, or allowing the discharge of contaminants to waters of the State so as to cause or tend to cause water pollution in Illinois, the Respondents have violated Section 12(a) of the Act, 415 ILCS 5/12(a)(2004).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondents, BOB D. STAGNER and LINDA S. STAGNER, d/b/a LB'S CAMPING & MOBILE HOME PARK:

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

B. Finding that Respondents have violated the Act and regulations as alleged herein;

C. Ordering Respondents to cease and desist from any further violations of the Act and associated regulations;

- D. Assessing against Respondents 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

PERMIT AND REPORTING VIOLATIONS

1-27. Complainant realleges and incorporates herein by reference paragraphs 1 through 27 of Count I as paragraphs 1 through 27 of this Count II.

28. The Respondents' NPDES Permits provide, in pertinent part:

SPECIAL CONDITION 7. For the duration of this Permit, the Permittee shall determine the quantity of sludge produced by the treatment facility in dry tons or gallons with average percent total solids analysis. The Permittee shall maintain adequate records of the quantities of sludge produced and have said records available for IEPA inspection. The Permittee shall submit to the IEPA, at a minimum, a semi-annual summary report of the quantities of sludge generated and disposed of, in units of dry tons or gallons (average total percent solids) by different disposal methods including but not limited to application on the farmland, application on reclamation land, landfilling, public distribution, dedicated land disposal, sod farms, storage lagoons or any other specified disposal method. Said reports shall be submitted to the IEPA by January 31 and July 31 of each year reporting the preceding January thru June and July thru December interval of sludge disposal operation.

* * *

SPECIAL CONDITION 8. The Permittee shall record monitoring results on Discharge Monitoring Report Forms using one such form for each outfall each month.

In the event that an outfall does not discharge during a monthly reporting period, the DMR form shall be submitted with no discharge indicated.

* * *

The completed Discharge Monitoring Report forms shall be submitted to IEPA no later than the 15th day of the following month, unless otherwise specified by the permitting authority

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

No person shall:

- f. Cause, threaten or allow the discharge of any contaminants 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.

30. Section 304.141(a) of the Board's Water Pollution Regulations, 35 Ill. Adm.

Code 304.141(a), provides:

NPDES Effluent Standards

- a. No person to whom an NPDES Permit has been issued may discharge any containment in his effluent in excess of the standards and limitations for that contaminant which are set forth in his permit.

31. Section 305.102 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code

305.102, provides:

- a. Every person within this State operating a pretreatment works, treatment works, or wastewater source shall submit operating reports to the Agency at a frequency to be determined by the Agency. "Agency" means the Illinois Environmental Protection Agency. Such reports shall contain information regarding the quantity of influent and of effluent discharged, of wastes bypassed and of

combined sewer overflows; the concentrations of those physical, chemical, bacteriological and radiological parameters which shall be specified by the Agency; information concerning the biological impact of the discharge as specified by the Agency, pursuant to Section 39 of the Act; and any additional information the Agency may reasonably require. This reporting requirement for pretreatment works shall only apply to those pretreatment works which are required to have a pretreatment permit or authorization to discharge pursuant to 35 Ill. Adm. Code 310.

- 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.

32. Section 380.202(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 380.202(a), provides:

Requirement

- a. The use or operation of a wastewater treatment or pretreatment works for which a permit is required by 35 Ill. Adm. Code 309 shall be by or under the supervision of a properly certified operator.

33. As recorded in the Respondents' DMRs, effluent from the WWTP for LB's Camping exceeded limits set forth in its NPDES permit for CBOD₅, TSS, ammonia nitrogen and fecal coliform, in violation of 35 Ill. Adm. Code 304.141(a).

34. Respondents have failed to submit the biannual sludge summary report as required by Special Condition 7 of the NPDES Permit for January 2002, in violation of 35 Ill. Adm. Code 305.102(a) and (b).

35. Respondents have failed to submit the DMRs as required by Special Condition 8 of the NPDES Permit for April 2002 and December 2002, in violation of 35 Ill. Adm. Code 305.102(a) and (b).

36. The WWTP for LB's Camping lacked the supervision of a properly certified operator, in violation of 35 Ill. Adm. Code 380.202(a).

37. By violating the Board's Water Pollution Regulations, Respondents have violated Section 12(f) of the Act, 415 ILCS 5/12(f)(2004).

39. By causing, threatening, or allowing the discharge of contaminants into the waters of the State in violation of the terms and conditions established by the NPDES Permit, Respondents have violated Section 12(f) of the Act, 415 ILCS 5/12(f)(2004).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondents, BOB D. STAGNER and LINDA S. STAGNER, d/b/a LB'S CAMPING & MOBILE HOME PARK:

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

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D. Assessing against Respondents 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.

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
Raymond J. Callery
Assistant Attorney General
500 South Second Street
Springfield, Illinois 62706
(217) 782-9031

Dated: 5/11/06