



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

PCB09-24

Lisa Madigan
ATTORNEY GENERAL

October 15, 2008

RECEIVED
CLERK'S OFFICE

OCT 17 2008

STATE OF ILLINOIS
Pollution Control Board

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board
James R. Thompson Center, Ste. 11-500
100 West Randolph
Chicago, Illinois 60601

Re: ***People v. Dennis Lahood***

Dear Clerk:

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,

A handwritten signature in black ink, appearing to read "Stephen Janasie", is written over a horizontal line.

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

SJ/pk
Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF)
ILLINOIS,)
)
Complainant,)
)
vs.)
)
DENNIS LAHOOD, d/b/a VILLENEAUVE)
SUBDIVISION, an Illinois limited)
liability corporation,)
)
Respondent.)

PCB No. 09-24
(Enforcement)

RECEIVED
CLERK'S OFFICE

OCT 17 2008

STATE OF ILLINOIS
Pollution Control Board

NOTICE OF FILING

To: Dennis Lahood
d/b/a Villeneuve Subdivision
P.O. Box 2861
East Peoria, IL 61611

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 (2006), 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: 

Stephen Janasie
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: October 15, 2008

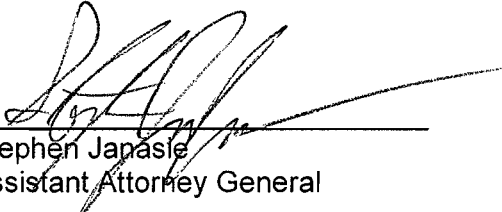
CERTIFICATE OF SERVICE

I hereby certify that I did on October 15, 2008, 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: Dennis Lahood
d/b/a Villeneuve Subdivision
P.O. Box 2861
East Peoria, IL 61611

and the original and ten copies by First Class Mail with postage thereon fully prepaid of the same foregoing instrument(s):

To: John T. Therriault, Assistant Clerk
Illinois Pollution Control Board
James R. Thompson Center
Suite 11-500
100 West Randolph
Chicago, Illinois 60601



Stephen Janasie
Assistant Attorney General

This filing is submitted on recycled paper.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

OCT 17 2008

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF)
ILLINOIS,)
)
 Complainant,)
)
 vs.)
)
 DENNIS LAHOOD, d/b/a VILLENEAUVE)
 SUBDIVISION, an Illinois limited)
 liability corporation,)
)
 Respondent.)

PCB No. 09-24
(Enforcement)

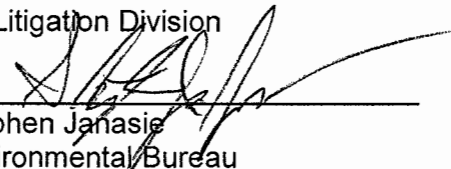
ENTRY OF APPEARANCE

On behalf of the Complainant, PEOPLE OF THE STATE OF ILLINOIS, Stephen Janasie, 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: 
Stephen Janasie
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: October 15, 2008

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
vs.)
)
DENNIS LAHOOD d/b/a VILLENEAUVE)
SUBDIVISION, an Illinois limited)
liability corporation,)
)
Respondent.)

PCB No. 09- 24

RECEIVED
CLERK'S OFFICE
OCT 17 2008
STATE OF ILLINOIS
Pollution Control Board

COMPLAINT

Complainant, 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, complains of Respondent, DENNIS LAHOOD d/b/a VILLENEAUVE SUBDIVISION, an Illinois limited liability corporation, as follows:

COUNT I
STORMWATER VIOLATIONS

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 Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2006).

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 (2006), and charged, *inter alia*, with the duty of enforcing the Act.

3. Dennis Lahood is the developer of Villeneuve Subdivision, located southeast of the intersection of Route 116 and 24 in East Peoria, Tazewell County, Illinois. Villeneuve Subdivision includes a lower elevation area consisting of approximately 10 acres along Route 116 and an upper area consisting of approximately 66 acres on the bluff along Route 24.

4. On August 15, 2005, Illinois EPA issued to Respondent a general NPDES

stormwater permit for Villeneuve Subdivision.

5. On January 17, 2006, personnel from the Illinois EPA Division of Water Pollution Control/Field Operations Section, Peoria Regional Office, inspected Villeneuve Subdivision.

6. During the January 17, 2006 inspection, no erosion controls were present on the lower area of Villeneuve Subdivision. Sediment was entering an unnamed stream along Route 116 that flows into the Illinois River.

7. On January 17, 2006, short sections of silt fence in the upper area of Villeneuve Subdivision were improperly placed on slopes and ravines and overrun with sediment. Sediment from these areas had discharged into the ravines and had also entered the stormwater inlets near the site entrance.

8. Section 12(a) of the Act, 415 ILCS 5/12(a) (2006), provides the following prohibition:

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;

* * *

9. Section 309.102 (a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a), contains the following prohibition:

- 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.

10. Section 3.545 of the Act, 415 ILCS 5/3.545 (2006), 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, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

11. Section 3.165 of the Act, 415 ILCS 5/3.165 (2006), provides the following definition:

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

12. Silt and sediment are "contaminants" as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2006).

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

14. The federal Clean Water Act regulates the discharge of pollutants from a point source into navigable waters and prohibits such point source discharges without a NPDES permit. The United States Environmental Protection Agency ("USEPA") administers the NPDES program in each State unless the USPEA has delegated authority to do so to that State. The USEPA has authorized the State of Illinois to issue NPDES permits through the Illinois EPA in compliance with federal regulations.

15. Storm water discharges are regulated by 40 CFR 122.26, which requires a person to obtain a NPDES permit and to implement a stormwater pollution prevention plan for construction activity including clearing, grading and excavation:

(a) Permit requirement.

(1) Prior to October 1, 1994, discharges composed entirely of storm water

shall not be required to obtain a NPDES permit except:

* * *

(ii) A discharge associated with industrial activity (see § 122.26(a)(4));

* * *

(b) Definitions.

* * *

(14) Storm water discharge associated with industrial activity means the discharge from any conveyance that is used for collecting and conveying storm water and that is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. . .The following categories of facilities are considered to be engaging in "industrial activity" for purposes of paragraph (b)(14):

* * *

(x) Construction activity including clearing, grading and excavation, except operations that result in the disturbance of less than five acres of total land area. Construction activity also includes the disturbance of less than five acres total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or more;

* * *

16. Respondent caused water pollution through the discharge of sediment into an unnamed stream, ravines, and stormwater inlets, in violation of Section 12(a) of the Act, 415 ILCS 5/12(a) 2006, as well as Section 309.102(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a).

PRAYER FOR RELIEF

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

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

- B. Finding that the Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2006), imposing a civil penalty of not more than the statutory maximum; and
- E. Granting such other relief as the Board deems appropriate.

COUNT II
NPDES PERMIT VIOLATIONS

1-13. Complainant realleges and incorporates herein by reference paragraphs 1 through 7 and paragraphs 10 through 15 of Count I as paragraphs 1 through 13 of this Count II.

14. Section 12(f) of the Act, 415 ILCS 5/12(f) (2006), 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.

* * *

15. Respondent violated the terms of its general NPDES stormwater permit by failing to implement adequate erosion controls at the site, in violation of Section 12(f) of the Act, 415 ILCS 5/12(f) (2006).

PRAYER FOR RELIEF

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

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that the Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2006), imposing a civil penalty of not more than the statutory maximum; and
- E. Granting such other relief as the Board deems 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:

Stephen J. Janasie
500 South Second Street
Springfield, Illinois 62706
217/782-9031

Dated: October 15, 2008

