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STATE OF ILLINOIS  
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

**Lisa Madigan**  
ATTORNEY GENERAL

December 11, 2006

PCB0747

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

Re: ***People v. City of Pekin***  
**PCB**

Dear Clerk Gunn:

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

Thank you for your cooperation and consideration.

Very truly yours,

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

JB/pp  
Enclosures

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DEC 13 2006

STATE OF ILLINOIS  
Pollution Control Board

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF )  
ILLINOIS, )  
 )  
Complainant, )  
 )  
vs. )  
 )  
CITY OF PEKIN, an Illinois municipal )  
corporation, )  
 )  
Respondent. )

PCB No. 07-47  
(Enforcement)

**NOTICE OF FILING**

To: Lyndell Howard, Mayor  
City of Pekin  
400 Margaret Street  
Pekin, IL 61554

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:   
JENNIFER BONKOWSKI  
Assistant Attorney General  
Environmental Bureau

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: December 11, 2006

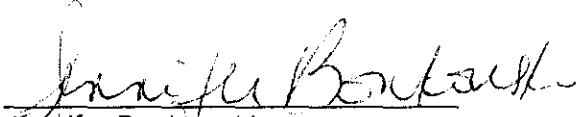
## CERTIFICATE OF SERVICE

I hereby certify that I did on December 11, 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: Lyndell Howard, Mayor  
City of Pekin  
400 Margaret Street  
Pekin, IL 61554

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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DEC 13 2006

STATE OF ILLINOIS  
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, )  
 )  
 )  
 Complainant, )  
 )  
 vs. )  
 )  
 CITY OF PEKIN, an Illinois municipal )  
 corporation, )  
 )  
 Respondent. )

PCB No. 07-47  
(Enforcement)

ENTRY OF APPEARANCE

On behalf of the Complainant, PEOPLE OF THE STATE OF ILLINOIS, JENNIFER BONKOWSKI, 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: Jennifer Bonkowski  
JENNIFER BONKOWSKI  
Environmental Bureau  
Assistant Attorney General

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: December 11, 2006



current NPDES permit was reissued on May 4, 2004, and became effective June 1, 2004, the terms and conditions of which are incorporated herein by reference.

5. The City's sewage collection system includes approximately 17 miles of combined sewers. There are four permitted combined sewer overflows ("CSOs"), the operation of which is governed by Special Condition 12 of the NPDES permit and the CSO Exception granted by the Board on June 5, 1986, in PCB No. 85-226. Outfall 001 is for the WWTP, which has a design maximum flow of 8.7 million gallons per day ("MGD"), and Outfall 002 is for the excess flow facilities, which shall not be utilized until the main treatment facility is receiving its maximum practical flow. The excess flow facilities consist of a settling basin and a chlorination tank with capacities of 224,000 and 75,000 gallons, respectively.

6. The Illinois River is a "waters" of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2004).

7. Section 3.545 of the Act, 415 ILCS 5/3.545 (2004), 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.

8. Section 12 of the Act, 415 ILCS 5/12 (2004), provide 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;

\* \* \*

- (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.

\* \* \*

9. 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 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.

10. 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.

11. Section 304.121(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.121(a), provides

- a) Effluents discharged to all general use waters shall not exceed 400 fecal coliforms per 100 ml unless the Illinois Environmental Protection Agency determines that an alternative effluent standard is applicable. . . .



12. The City's permit imposes effluent concentration limitations for fecal coliform, which is a "contaminant" as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2004). The effluent concentration limitation for fecal coliform is a daily maximum of 400 per 100 mL for Outfall 001 during May through October and for Outfall 002 whenever there is any discharge. Discharge Monitoring Reports ("DMRs") are submitted monthly in accordance with the permit to report the concentrations of contaminants in the effluent and any excess flow.

13. On February 14, 2003, the City discharged for over 4 hours from Outfall 002 although the main treatment facility was not receiving its maximum practical flow. The discharge contained fecal coliform well in excess of the regulatory and permit limit of 400 per 100 mL.

14. During the morning of April 20, 2004, the City discharged for over 30 minutes from Outfall 002 although the main treatment facility was not receiving its maximum practical flow. The excess flow facilities remained full throughout the day. Beginning at approximately 8 PM on April 20, 2004, and continuing until 8 AM on April 21, 2004, the City discharged from Outfall 002 although the main treatment facility was not receiving its maximum practical flow. The discharge contained fecal coliform well in excess of the regulatory and permit limit of 400 per 100 mL. The discharge contained total suspended solid levels shown by lab analysis to be 42 mg/l.

15. The City has caused or allowed the discharge of contaminants into waters of the State in violation of the terms or conditions of its NPDES permit and has thereby violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2004).

16. By discharging contaminants into waters of the State in violation of the terms or conditions of its NPDES permit, the City has thereby violated Sections 304.141(a) and

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

17. By discharging contaminants into waters of the State so as to violate regulations or standards adopted by the Pollution Control Board under this Act, the City has thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2004).

18. By discharging contaminants into waters of the State so as to tend to cause water pollution, the City has thereby 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 Respondent, CITY OF PEKIN:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that 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. Assessing against Respondent 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; and
- E. Granting such other relief as the Board may deem appropriate.

**COUNT II**  
**OPERATIONAL VIOLATIONS**

1-12. Complainant realleges and incorporates herein by reference paragraphs 1 through 12 of Count I as paragraphs 1 through 12 of this Count II.

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

System Reliability

Malfunctions: All treatment works and associated facilities shall be 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, duplicative power sources, or such other measures as may be appropriate.

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.

14. Section 305.102(b) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 305.102(b), provides:

- 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.

15. On February 19, 2003, the Illinois EPA inspected the WWTP to evaluate its compliance with the NPDES Permit. Among the problems documented during this inspection were inaccurate flow measurement, inadequate activated sludge process control, inadequate flood protection for Outfall 001, the digester tank, originally installed in 1964, was inoperable due to cracks and leaks, and the excess flow facilities lacked any measures to remove sludge from the settling basin and chlorination tank. Additionally, the City had recently deposited grease and sludge into the settling basin from a clean-out of the primary clarifier scum wells,

which threatened the discharge of such wastes through Outfall 002 in the event of excess flows. Vactor pit leachate from sewer cleaning operations was also being discharged to this settling basin. Review of the lab records revealed that monitoring was not being conducted according to the frequency required by the permit and that ammonia was being reported as a daily maximum instead of the weekly average required by the permit. Lastly, the City reported that it had failed to investigate south interceptor sanitary sewer overflows and to control slugs of industrial waste, especially grease loadings.

16. On April 27, 2004, the Illinois EPA inspected the WWTP to evaluate its compliance with the NPDES Permit and to investigate recent excess flow discharges. The City reported that the failure of the plugged bar screen alarm contributed to the April 20 and 21, 2004, plant bypass incident. Moreover, the City reported that, due to activated sludge quality problems, it was unable to provide continuous treatment of the maximum practical flow. Review of the lab records revealed that monitoring was not being conducted according to the frequency required by the permit.

17. On March 2 and 3, 2005, the Illinois EPA inspected the WWTP. Among the problems documented during this inspection were a lack of flow measurement, the presence of odorous sludge and wastewater in the two contact stabilization donuts and a corresponding failure to check the WWTP during or after gate closure, ineffective maintenance of the 002 chlorine contact tank, and inadequate flood protection for the 002 basin.

18. On May 6, 2005, the Illinois EPA inspected the WWTP to evaluate its compliance with the NPDES Permit. Generator failure, and related electrical equipment failure, due to improper use of the stand-by generator were documented during this inspection.

19. By failing to ensure that all treatment works and associated facilities shall be constructed and operated as to minimize violations of applicable standards during such

contingencies as flooding, adverse weather, power failure, equipment failure, or maintenance, the City has violated Section 306.102 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 306.102 and Section 12(a) of the Act, 415 ILCS 5/12(a) (2004).

20. By failing to comply with the monitoring, sampling, recording and reporting requirements set forth in its NPDES permit, the City has violated Section 305.102(b) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 305.102(b) and Section 12(f) of the Act, 415 ILCS 5/12(f) (2004).

21. By allowing bypasses and overflows of untreated wastewater to occur, the City has violated Section 306.102 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 306.102 and 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 Respondent, CITY OF PEKIN:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that 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. Assessing against Respondent 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; and
- E. Granting such other relief as the Board may deem appropriate.

**COUNT III**  
**OPERATOR CERTIFICATION VIOLATIONS**

1-12. Complainant realleges and incorporates herein by reference paragraphs 1 through 12 of Count I as paragraphs 1 through 12 of this Count III.

13. Section 312.101 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 312.101, provides:

No person shall cause or allow the use or operation of any treatment works for which a permit is required by Part 309 unless the operation of such treatment works is under the direct and active field supervision of a person who has been certified by the Agency as being competent to operate the particular type or size of treatment works being used or operated.

14. From February 28, 2003 through March 31, 2003, the City failed to have a certified Class I operator to supervise the operation of the WWTP.

15. By failing to have a certified Class I operator to supervise the operation of the WWTP, the City has violated Section 312.101 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 312.101 and 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 Respondent, CITY OF PEKIN:

- 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. 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:  
JENNIFER BONKOWSKI  
500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: December 11, 2006