

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
LISA MADIGAN, Attorney General of)	
the State of Illinois,)	
)	
Complainant,)	
)	
vs.)	PCB No. 07
)	
CITY OF WOODSTOCK, an Illinois municipal)	(Enforcement—Water)
corporation,)	
)	
Respondent.)	

NOTICE OF FILING

TO:

City of Woodstock (VIA ELECTRONIC FILING)
 Dr. Brian Sager, Mayor
 121 W. Calhoun Street
 Woodstock, Illinois 60098

PLEASE TAKE NOTICE that today I have electronically filed with the Office of the Clerk of the Pollution Control Board the following Complaint, a copy of which is attached and hereby served on you.

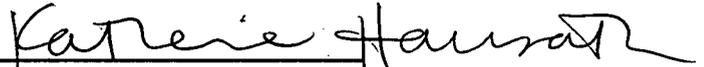
Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer 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 3515/1 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: 

KATHERINE M. HAUSRATH
Assistant Attorney General
Environmental Bureau
188 W. Randolph St., 20th Floor
Chicago, Illinois 60601
(312) 814-0660

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PEOPLE OF THE STATE OF ILLINOIS,)	
LISA MADIGAN, Attorney General of)	
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COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, CITY OF WOODSTOCK, as follows:

COUNT I:

CONSTRUCTION WITHOUT A PERMIT

1. This complaint is brought 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 Section 31 of the 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 is 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) *et seq.* (2006).

3. Respondent CITY OF WOODSTOCK (“Woodstock”) is an Illinois municipal

corporation, duly organized and existing under the laws of the State of Illinois. Woodstock is located in McHenry County, Illinois. The population of Woodstock is 23,241.

4. Woodstock is the owner and operator of the Woodstock South Wastewater Treatment Plant ("Woodstock South WWTP"). The Woodstock South WWTP is located at 800 Diekman Street in Woodstock, and serves the south side of Woodstock.

5. The Woodstock South WWTP discharges effluent to the Kishwaukee River pursuant to NPDES Permit No. IL0034282.

6. Sometime before October 2005, on a date better known to Respondent, Woodstock installed a wastewater spray irrigation system. The purpose of the system is to irrigate an athletic complex. The irrigation agent is chlorinated effluent from the Woodstock South WWTP. Several drinking fountains are located around the athletic complex.

7. In October 2005, the Illinois EPA Bureau of Water, Division of Water Pollution Control Permits Section received a construction permit application from Woodstock for a spray irrigation system indicating that the system had already been constructed and tested. The application was denied in January 2006 for design deficiencies.

8. On February 21, 2006, Woodstock submitted to the Illinois EPA another application for a construction and operating permit for the wastewater spray irrigation system.

9. On April 20, 2006, the Illinois EPA issued a construction permit to Woodstock for the wastewater spray irrigation system. The permit contained several special conditions, including the requirement that spray irrigation shall only occur when Woodstock is chlorinating the effluent, no drinking fountain shall be located closer than fifty feet from the edge of the spray irrigation area, and the effluent shall not be applied when the wind exceeds 15 miles per hour.

10. Woodstock's operation of the wastewater spray irrigation system 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 Water Pollution Regulations").

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

No person shall:

- (b) Construct, install, or operate any equipment, facility, vessel, or aircraft capable 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. Section 309.202(a) of the Illinois Pollution Control Board ("Board") Water Pollution Regulations, 35 Ill. Adm. Code 309.202(a), provides, as follows:

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).

13. Section 3.315 of the Act, 415 ILCS 5/3.315 (2004), provides, as follows:

"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.

14. Woodstock, an Illinois political subdivision, is a "person" as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2004).

15. 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.

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

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

17. The wastewater that flows through the wastewater spray irrigation system at the Woodstock South WWTP is a contaminant as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2004).

18. The wastewater spray irrigation system is intended to prevent water pollution by discharging the treated effluent to the land at the Site rather than into a water of the State.

19. Respondent constructed the wastewater spray irrigation system at the Woodstock South WWTP on or before October 2005, and did not receive a construction permit from the Illinois EPA until April 20, 2006.

20. By constructing the wastewater spray irrigation system, which is equipment or a facility designed to prevent water pollution, without a construction permit from the Illinois EPA, Respondent violated Section 12(b) of the Act, 415 ILCS 5/12(b) (2004).

21. Respondent did not receive an NPDES permit from the Illinois EPA for the wastewater spray irrigation system prior to constructing it, nor do any of the exceptions in

Section 309.202(b) apply:

22. Respondent, City of Woodstock, constructed the wastewater spray irrigation system, which modified the existing treatment works, without a construction permit from the Illinois EPA, and thus violated Section 309.202(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.202(a).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, CITY OF WOODSTOCK on Count I:

1. Authorize a hearing in this matter at which time Respondent will be required to answer the allegations herein;
2. Find that Respondent has violated Section 12(b) of the Act and 35 Ill. Adm. Code 309.202(a);
3. Order Respondent to cease and desist from any future violations of Section 12(b) of the Act and 35 Ill. Adm. Code 309.202(a);
4. Assess against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of the Act and regulations and Ten Thousand Dollars (\$10,000.00) for each day of violation;
5. Order Respondent to pay all costs in this action, including expert witness, consultant, and attorney's fees; and
6. Granting such other relief as the Board deems appropriate and just.

COUNT II

VIOLATION OF NPDES PERMIT

1-15. Complainant realleges and incorporates by reference herein paragraphs 1 through

10 and paragraphs 13 through 17 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, 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. . . .

17. The federal Clean Water Act regulates the discharge of pollutants from a point source into navigable waters and prohibits such point source discharges without an NPDES permit. The United States Environmental Protection Agency ("USEPA") administers the NPDES program in each State unless the USEPA has delegated authority to do so to that State.

18. The USEPA has authorized the State of Illinois to issue NPDES permits through the Illinois EPA.

19. On December 10, 2004, the Illinois EPA issued to Woodstock NPDES Permit No. IL0034282 authorizing the discharge of wastewater treatment effluent from the Woodstock South WWTP to the Kishwaukee River. The permit will expire on February 10, 2010.

20. Woodstock's NPDES Permit No. IL0034282 did not authorize the discharge of wastewater from the wastewater spray irrigation system. Woodstock also did not obtain a construction permit from the Illinois EPA prior to constructing the wastewater spray irrigation system on or before October 2005.

21. By constructing the wastewater spray irrigation system at the Woodstock South WWTP without authorization, and thus allowing effluent to be discharged in violation of NPDES

Permit No. IL0034282, Woodstock violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2004).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, CITY OF WOODSTOCK on

Count II:

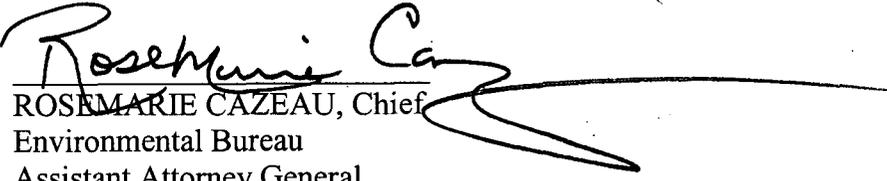
1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated Section 12(f) of the Act;
3. Ordering the Respondent to cease and desist from any further violations of Section 12(f) of the Act;
4. Assessing a civil penalty of Ten Thousand Dollars (\$10,000.00) against the Respondent for each violation of Section 12(f) of the Act;
5. Ordering the Respondent to pay all costs, pursuant to Section 42(f) of the Act, including attorney, expert witness, 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,

LISA MADIGAN
Attorney General
State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos Litigation Division

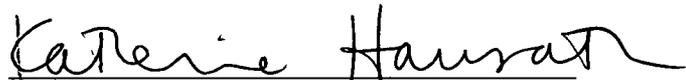
BY:


ROSEMARIE CAZEAU, Chief
Environmental Bureau
Assistant Attorney General

OF COUNSEL
KATHERINE M. HAUSRATH
Assistant Attorney General
Environmental Bureau
188 W. Randolph St. 20th Floor
Chicago, Illinois 60601
(312) 814-0660

CERTIFICATE OF SERVICE

I, KATHERINE M. HAUSRATH, an Assistant Attorney General, do certify that I caused to be mailed this 21 day of December, 2006, the foregoing Complaint and Notice of Filing upon the person listed on said notice, by certified mail.



KATHERINE M. HAUSRATH
Assistant Attorney General
Environmental Bureau
188 West Randolph, 20th Floor
Chicago, IL 60601
312-814-0660