

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	PCB No. 08-
)	
v.)	(Enforcement- Public
)	Municipal Water Supply)
VILLAGE OF SKOKIE, an Illinois municipal)	
corporation,)	
)	
Respondent.)	

NOTICE OF ELECTRONIC FILING

TO: Henry Mueller
Village of Skokie
5127 Oakton St.
Skokie, IL 60077

PLEASE TAKE NOTICE that today, May 9, 2008, I have filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the following Complaint a true and correct copy of which is attached and hereby served upon you.

Pursuant to 35 Ill. Adm. Code 103.204(f), I am required to state that 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.

THIS FILING IS SUBMITTED ON RECYCLED PAPER

PEOPLE OF THE STATE OF ILLINOIS,
by LISA MADIGAN, Attorney General
of the State of Illinois

BY:



NANCY J. TIKALSKY
Assistant Attorney General
Environmental Bureau
69 W. Washington St., Suite 1800
Chicago, Illinois 60602
(312) 814-8567

CERTIFICATE OF SERVICE

I, Nancy J. Tikalsky, an Assistant Attorney General, do certify that a true and correct copy of the Complaint and Notice of Filing were sent by certified mail with return receipt requested to the persons listed on the Notice of Filing on May 9, 2008.

BY:



NANCY J. TIKALSKY

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	PCB No.
)	
v.)	(Enforcement- Public Municipal
)	Water Supply)
VILLAGE OF SKOKIE, an Illinois municipal)	
corporation,)	
)	
Respondent.)	

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, VILLAGE OF SKOKIE, an Illinois municipal corporation, as follows:

COUNT I

CONSTRUCTION OF WATER MAINS AT THE OPTIMA OLD ORCHARD DEVELOPMENT BY THE VILLAGE OF SKOKIE WITHOUT A PERMIT

1. This Count 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 (2006).

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

3. At all times relevant to this complaint, Respondent, Village Of Skokie ("VOS"), was and is an Illinois municipal corporation, duly authorized and operating under the laws of the State of Illinois.

4. VOS has a population of approximately 63,348 residents and is located in Cook County, Illinois. At all times relevant to this complaint, VOS was the owner, operator, and legal custodian of the Village of Skokie's public water supply, including but not limited to the public water main and distribution system ("Skokie Water Supply").

5. At all times relevant to this complaint, Optima, Inc., ("Optima") owned and developed Optima Old Orchard Woods ("Optima Project"), located at Old Orchard Road and Woods Drive, Skokie, Cook County, Illinois.

6. The Optima Project included the installation and construction of 1034 linear feet of water main within the Skokie Water Supply to service a three-building condominium development totaling approximately 645 residential units.

7. On or about December 14, 2004, or a date better known to Respondent, VOS, Optima submitted a construction permit application to the Illinois EPA ("Optima Project permit application"). In its application, Optima requested a permit for construction of 1034 linear feet of water main to be installed on public property and connected to the Skokie Water Supply at the Optima Project.

8. On January 4 and 24, 2005, the Illinois EPA responded in writing to the Optima Project permit application and requested that Optima submit additional information for the application, including but not limited to the request for the signature of VOS, the legal custodian of the Skokie Water Supply.

9. In or about March, 2005, or a date better known to Respondent, VOS issued a building permit to Optima that approved site work including construction of water mains for the Skokie Water Supply.

10. In or about March, 2005, or a date better known to Respondent, VOS, Optima constructed 1034 linear feet of water main of the Skokie Water Supply at the Optima Project.

11. In or about June 2005, or a date better known to Respondent, VOS inspected and approved the water main construction of the Skokie Water Supply at the Optima Project.

12. In correspondence dated September 13, 2005 and October 24, 2005 to Optima, the Illinois EPA denied the Optima Project permit application for incompleteness, including the lack of the signature of VOS, the legal custodian of the Skokie Water Supply.

13. The construction of a water main within the Skokie Water Supply is subject to the Act and Rules and Regulations promulgated by the Illinois Pollution Control Board ("Board") and the Illinois EPA. The Board's regulations for public water supplies are found in Title 35, Subtitle F, Chapter I of the Illinois Administrative Code ("Board Public Water Supply Regulations"), and the Illinois EPA rules and regulations for public water supplies are found in Title 35, Subtitle F, Chapter II of the Illinois Administrative Code ("Illinois EPA Public Water Supply Regulations").

14. Section 18(a) of the Act, 415 ILCS 5/18(a)(2006), provides as follows:

No person shall:

1. Knowingly cause, threaten or allow the distribution of water from any public water supply of such quality or quantity as to be injurious to human health; or

2. Violate regulations or standards adopted by the Agency pursuant to Section 15(b) of this Act or by the Board under this Act; or

3. Construct, install or operate any public water supply without a permit granted by the Agency, or in violation of any condition imposed by such a permit.

15. Sections 3.145, 3.315, and 3.365 of the Act, 415 ILCS 5/3.145, 5/3.315, and 5/3.365 (2006), respectively, provide the following definitions:

“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.

“COMMUNITY WATER SUPPLY” means a public water supply which serves or is intended to serve at least 15 service connections used by residents or regularly serves at least 25 residents.

“PUBLIC WATER SUPPLY” means all mains, pipes and structures through which water is obtained and distributed to the public, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use and which serve at least 15 service connections or which regularly serve at least 25 persons at least 60 days per year. A public water supply is either a “community water supply” or a “non-community water supply”.

16. Respondent, VOS is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315(2006).

17. The Skokie Water Supply is a “Public Water Supply” (“PWS”) and a “community water supply” as those terms are defined in Sections 3.365 and 3.145 of the Act, 415 ILCS 5/3.365 and 5/3.145 (2006), respectively.

18. Section 15(a) of the Act, 415 ILCS 5/15(a) (2006), provides as follows:

Owners of public water supplies, their authorized representative, or legal custodians, shall submit plans and specifications to the Agency and obtain written approval before construction of any proposed public water supply installations, changes, or additions is started. Plans and specifications shall be complete and of sufficient detail to show all proposed construction, changes, or additions that may affect sanitary quality, mineral quality, or adequacy of the public water supply; and, where necessary, said plans and specifications shall be accompanied by supplemental data as may be required by the Agency to permit a complete review thereof.

19. Section 602.101(a) of the Board Public Water Supply Regulations, 35 Ill. Adm.

Code 602.101(a), provides as follows:

No person shall cause or allow the construction of any new public water supply installation or cause or allow the change of or addition to any existing public water supply, without a construction permit issued by the Environmental Protection Agency (Agency). Public water supply installation, change, or addition shall not include routine maintenance, service pipe connections, hydrants and valves, or replacement of equipment, pipe, and appurtenances with equivalent equipment, pipe, and appurtenances.

20. Section 652.101(a) of the Illinois EPA Public Water Supply Regulations, 35 Ill.

Adm. Code 652.101(a), provides as follows:

Construction Permit Requirements

Construction permits shall be obtained by the official custodian of a community water supply prior to beginning construction of any proposed community water supply and prior to all alterations, changes or additions to an existing community water supply which may affect the sanitary quality, mineral quality or adequacy of the supply including changes pursuant to 35 Ill. Adm. Code 653.115.

21. By failing to submit construction permit applications with sufficient details or supplemental data as requested by the Illinois EPA, and by failing to obtain a permit from the Illinois EPA for the construction of water mains of the Skokie Water Supply at the Optima Project prior to beginning construction of the water mains, the Village of Skokie, the legal

custodian of the Skokie Water Supply, violated Sections 15(a) and 18(a) of the Act, 415 ILCS 5/15(a) and 5/18(a) (2006), Section 602.101(a) of the Board Public Water Supply Regulations, 35 Ill. Adm. Code 602.101(a), and Section 652.101(a) of the Illinois EPA Public Water Supply Regulations, 35 Ill. Adm. Code 652.101(a).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests the Board enter an order against the Respondent, VILLAGE OF SKOKIE:

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

2. Finding that the Respondent, Village Of Skokie, has violated Sections 15(a) and 18(a) of the Act, 415 ILCS 5/15(a) and 5/18(a) (2006), Section 602.101(a) of the Board Public Water Supply Regulations, 35 Ill. Adm. Code 602.101(a), and Section 652.101(a) of the Illinois EPA Public Water Supply Regulations, 35 Ill. Adm. Code 652.101(a);

3. Ordering the Respondent, Village Of Skokie, to cease and desist from any further violations of Sections 15(a) and 18(a) of the Act, 415 ILCS 5/15(a) and 5/18(a) (2006), Section 602.101(a) of the Board Public Water Supply Regulations, 35 Ill. Adm. Code 602.101(a), and Section 652.101(a) of the Illinois EPA Public Water Supply Regulations, 35 Ill. Adm. Code 652.101(a);

4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against the Respondent, Village Of Skokie, for each violation of the Act and pertinent regulations, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of each violation;

5. Ordering the Respondent, Village Of Skokie, to pay all costs, pursuant to Section 42(f) of the Act, including attorney, expert witness, and consultant fees expended by the State in pursuit of this action; and

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

COUNT II

CONSTRUCTION OF WATER MAINS AT SIENA AT OLD ORCHARD DEVELOPMENT BY THE VILLAGE OF SKOKIE WITHOUT A PERMIT

1-11. Complainant realleges and incorporates herein paragraphs 1 through 4 and 14 through 20 of Count I as paragraphs 1 through 11 of this Count II.

12. At all times relevant to this complaint, GENTAX SKOKIE, L.L.C., ("Gentax") owned and developed the commercial portion of a mixed-use commercial and residential planned unit development at The Siena at Old Orchard Development ("Siena Project") located at 9340-9408 Skokie Boulevard, Skokie, Cook County, Illinois.

13. On or about January 20, 2004, or a date better known to Respondent, VOS, Gentax submitted a construction permit application to the Illinois EPA ("Gentax Project permit application"). In its application, Gentax requested a permit to construct approximately 1,555 linear feet of water main for the Skokie Water Supply at the Siena Project.

14. On February 10 and July 9, 2004, the Illinois EPA responded in writing to the Siena Project permit application and requested that Gentax submit additional information for the application, including but not limited to the signature of VOS, the legal custodian of the Skokie Water Supply.

15. In or about May, 2005, or a date better known to Respondent, VOS issued a permit to Gentax that approved site work including construction of water mains for the Skokie Water Supply.

16. In or about June, 2005, or a date better known to Respondent, VOS, Gentax constructed 1555 linear feet of water main for the Skokie Water Supply at the Siena Project.

17. In or about July 2005, or a date better known to Respondent, VOS inspected and approved the water main construction for the Skokie Water Supply at the Siena Project.

18. By failing to submit construction permit applications with sufficient details or supplemental data as requested by the Illinois EPA, and by failing to obtain a permit from the Illinois EPA for the construction of water mains of the Skokie Water Supply at the Siena Project prior to beginning construction of the water mains, the Village of Skokie, the legal custodian of the Skokie Water Supply, violated Sections 15(a) and 18(a) of the Act, 415 ILCS 5/15(a) and 5/18(a) (2006), Section 602.101(a) of the Board Public Water Supply Regulations, 35 Ill. Adm. Code 602.101(a), and Section 652.101(a) of the Illinois EPA Public Water Supply Regulations, 35 Ill. Adm. Code 652.101(a).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests the Board enter an order against the Respondent, VILLAGE OF SKOKIE:

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

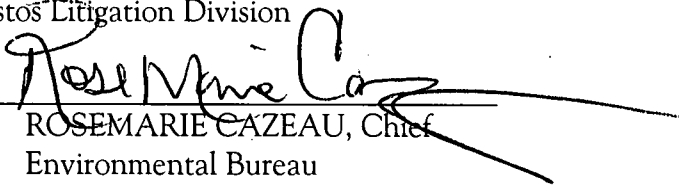
2. Finding that the Respondent, Village Of Skokie, has violated Sections 15(a) and 18(a) of the Act, 415 ILCS 5/15(a) and 5/18(a) (2006), Section 602.101(a) of the Board Public Water Supply Regulations, 35 Ill. Adm. Code 602.101(a), and Section 652.101(a) of the Illinois EPA Public Water Supply Regulations, 35 Ill. Adm. Code 652.101(a);

3. Ordering the Respondent, Village Of Skokie, to cease and desist from any further violations of Sections 15(a) and 18(a) of the Act, 415 ILCS 5/15(a) and 5/18(a) (2006), Section 602.101(a) of the Board Public Water Supply Regulations, 35 Ill. Adm. Code 602.101(a), and Section 652.101(a) of the Illinois EPA Public Water Supply Regulations, 35 Ill. Adm. Code 652.101(a);
4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against the Respondent, Village Of Skokie, for each violation of the Act and pertinent regulations, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of each violation;
5. Ordering the Respondent, Village Of Skokie, to pay all costs, pursuant to Section 42(f) of the Act, including attorney, expert witness, and consultant fees expended by the State in pursuit of this action; and
6. Granting such other relief as the Board deems appropriate and just.

PEOPLE OF THE STATE OF ILLINOIS
ex rel. LISA MADIGAN, Attorney General
of the State of Illinois

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

BY:


ROSEMARIE CAZEAU, Chief
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