

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	No.
v.)	
)	
WINDSOR LAKE PARTNERSHIPS,)	
an Illinois Limited Partnership, JAMES)	
DURKEE, an individual, and SANDY)	
SOKOLICK, an individual,)	
)	
Respondents.)	

NOTICE OF ELECTRONIC FILING

TO: SEE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that today, February 23, 2011, 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.

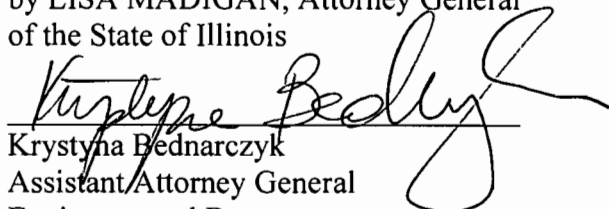
Pursuant to 35 Ill. Adm. Code 103.204(f), I am required to state that failure to file an answer to this Complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the Complaint will be taken as if admitted for purposes of this proceeding. If you have any 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.

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

BY:



Krystyna Bednarczyk
Assistant Attorney General
Environmental Bureau

69 W. Washington St., Suite 1800
Chicago, Illinois 60602
(312) 814-1511

Date: February 23, 2011

**THIS FILING IS SUBMITTED ON RECYCLED PAPER
SERVICE LIST**

Windsor Lake Partnerships, LLP
c/o James Durkee, Registered Agent
233 Arlington Heights Rd.
Elk Grove Village, IL 60007-0000

James Durkee
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
by Lisa Madigan, Attorney General)
of the State of Illinois,)
)
Complainant,)
)
vs.) No.
)
)
WINDSOR LAKE PARTNERSHIPS,)
an Illinois Limited Partnership, JAMES)
DURKEE, an individual, and SANDY)
SOKOLICK, an individual,)
)
Respondents.)

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of the Respondents, Windsor Lake Partnerships, an Illinois Limited Partnership (“Windsor”), James Durkee (“Durkee”), an individual, and Sandy Sokolick (“Sokolick), an individual, (collectively, the “Respondents”) as follows:

COUNT I

WATER POLLUTION

1. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, the 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 Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2010) against Respondent Durkee.

2. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, the Attorney General of the State of Illinois, on her own motion against Respondents Windsor and Sokolick.

3. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2010), and charged, *inter alia*, with the duty of enforcing the Act. The Illinois EPA is further charged with enforcement of the Illinois Pollution Control Board's Water Pollution Regulations ("Board Water Pollution Regulations"), at 35 Ill. Adm. Code Subtitle C, Chapter I, and is also responsible for administering the Federal Clean Water Act's, National Pollutant Discharge Elimination System ("NPDES") permit program, 33 U.S.C. § 1342(b)(7), within the State of Illinois.

4. On July 1, 2002, Durkee and Sokolick formed Windsor Lake Office Park, Inc. ("Windsor Inc.") and incorporated in the State of Illinois. Durkee and Sokolick were the owners of Windsor Inc. Windsor Inc. was formed as a commercial real estate renting and leasing company.

5. On or after July 1, 2002, and before June 30, 2003, but on dates better known to Respondent, Windsor Inc. purchased property at 1752 Windsor Road, Loves Park, Winnebago County, Illinois. The property includes a commercial building and, to the north of the building, a lift station ("Lift Station") that is located within ten feet of the shoreline of Windsor Lake.

6. On June 30, 2003, Windsor Inc. was involuntarily dissolved by the Illinois Secretary of State.

7. After June 30, 2003, on a date better known by Respondents, title to 1752 Windsor Road, Loves Park, Winnebago County, Illinois, was transferred to the Windsor partnership.

8. On September 28, 2004, Durkee and Sokolick formed Windsor, an Illinois limited partnership. At all times relevant to the Complaint, Windsor was and is a limited partnership in good standing with the State of Illinois, operating as Windsor Lake Office Partners.

9. At all times relevant to the Complaint, Durkee and Sokolick were general partners in the Windsor limited partnership. Each holds 41 % interest in the partnership. A third, unnamed limited partner holds the remaining 18% stake in the Windsor partnership.

10. The Lift Station's tank is approximately seven feet deep and three feet in diameter and is located at the edge of Windsor Lake.

11. On May 21, 2009, the Illinois EPA inspected the Lift Station ("May Inspection").

12. At the time of the May Inspection, the Lift Station had overflowed and had discharged debris, including raw, untreated sewage onto the ground, toward and into Windsor Lake. Debris had also flowed under the wooden walkway adjacent to the Lift Station, ultimately reaching a dock located on Windsor Lake.

13. At the time of the May Inspection, there was a strong, foul odor downwind of the Lift Station.

14. At the time of the May Inspection, the Respondents had not been performing regular maintenance nor conducting regular inspections of the Lift Station.

Additionally, the alarm for the Lift Station, the purpose of which is to provide an audible warning when the Lift Station malfunctions, was not working.

15. On June 8, 2009, the Illinois EPA conducted a follow-up inspection at the Lift Station (“June Inspection”).

16. At the time of the June Inspection, the Lift Station’s audio alarm system had been repaired and an audio-visual alarm system had been installed on the Lift Station.

17. At the time of the June Inspection, there was no debris in the vicinity of the Lift Station, nor was any foul odor present.

18. Section 12(a) of the Act, 415 ILCS 5/12(a) (2010), provides as follows:

No person shall:

- (a) Cause or threaten or allow the discharge of any contaminants into the environment of 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.

19. Section 3.315 of the Act, 415 ILCS 5/3.315 (2010), provides the following definition:

“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.

20. The Respondents, Windsor, a partnership, Durkee, an individual, and Sokolick, an individual, are each a “person,” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2010).

21. Section 3.165 of the Act, 415 ILCS 5/3.165 (2010), provides the following definition:

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

22. Untreated sewage is a “contaminant,” as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2010).

23. Section 3.550 of the Act, 415 ILCS 5/3.550 (2010), contains 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.

24. Windsor Lake is a “water” of the State of Illinois, as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2010).

25. Section 3.545 of the Act, 415 ILCS 5/3.545 (2010), 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.

26. The Respondents’ discharge of untreated sewage, a contaminant, from the Lift Station, onto the ground and into Windsor Lake, altered or threatened to alter the physical, thermal, chemical, and/or radioactive properties of Windsor Lake; rendered, or was likely to render, Windsor Lake harmful, detrimental or injurious to wild animals, birds, fish, and other aquatic life; or, created, or was likely to create, a nuisance, and

thereby constituted "water pollution" as defined in Section 3.545 of the Act, 415 ILCS 5/3.545 (2010).

27. By discharging untreated sewage into Windsor Lake, as alleged herein, the Respondents caused or allowed water pollution in violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, WINDSOR LAKE PARTNERSHIPS, JAMES DURKEE, and SANDY SOKOLICK with respect to this Count I, as follows:

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

2. Finding that Respondents have violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2010);

3. Ordering Respondents to cease and desist from committing any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2010);

4. Assessing against Respondents a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, with an additional civil penalty of Ten Thousand Dollars (\$10,000.00) per day of violation;

5. Taxing all costs against Respondents, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action pursuant to 415 ILCS 5/42(f) (2010); and

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

COUNT II

CREATION OF A WATER POLLUTION HAZARD

1- 24. Complainant realleges and incorporates by reference herein Paragraphs 1 through 17 and 19 through 25 of Count I as Paragraphs 1 through 24 of this Count II.

25. Section 12(d) of the Act, 415 ILCS 5/12(d) (2010), provides as follows:

No person shall:

(d) Deposit any contaminants upon the land in such place and manner so as to create a water pollution hazard.

26. The Respondents caused or allowed the discharge of untreated sewage from the Lift Station onto the ground. The untreated sewage then flowed over the bank and into Windsor Lake.

27. The overflow of untreated wastewater deposited contaminants on the land, and created a water pollution hazard, in violation of Section 12(d) of the Act, 415 ILCS 5/12(d) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, WINDSOR LAKE PARTNERSHIPS, JAMES DURKEE, and SANDY SOKOLICK with respect to this Count II, as follows:

1. Authorizing a hearing in this matter at which time the Respondents will be required to answer the allegations contained herein;
2. Finding that Respondents have violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2010);
3. Ordering Respondents to cease and desist from committing any further

violations of Section 12(d) of the Act, 415 ILCS 5/12(d) (2010);

4. Assessing against Respondents a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, with an additional civil penalty of Ten Thousand Dollars (\$10,000.00) per day of violation;

5. Taxing all costs against Respondents, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action pursuant to 415 ILCS 5/42(f) (2010); and

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

COUNT III

DISCHARGING WITHOUT A NPDES PERMIT

1- 24. Complainant realleges and incorporates by reference herein Paragraphs 1 through 17 and 19 through 25 of Count I as Paragraphs 1 through 24 of this Count III.

25. Section 12(f) of the Act, 415 ILCS 5/12(f) (2010), provides 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.

26. Section 401.11(d) of the Code of Federal Regulations ("C.F.R."), 40 C.F.R. 401.11(d), provides as follows:

The term point source means any discernible, confined and

discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.

27. The Lift Station is a "point source," within the meaning of 40 C.F.R. 401.11(d), but is not permitted as such by Illinois EPA.

28. Illinois EPA has never issued an NPDES permit authorizing a discharge from the Lift Station into a water of the State.

29. By discharging untreated sewage into Windsor Lake, a water of the State of Illinois, without an NPDES permit, the Respondents violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, WINDSOR LAKE PARTNERSHIPS, JAMES DURKEE, and SANDY SOKOLICK with respect to this Count III, as follows:

1. Authorizing a hearing in this matter at which time the Respondents will be required to answer the allegations contained herein;
2. Finding that Respondents have violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2010);
3. Ordering Respondents to cease and desist from committing any further violations of Section 12(f) of the Act, 415 ILCS 5/12(f) (2010);
4. Assessing against Respondents a civil penalty of Ten Thousand Dollars (\$10,000) per day of violation;
5. Taxing all costs against Respondents, including attorney, expert witness

and consultant fees expended by the State in its pursuit of this action pursuant to 415 ILCS 5/42(f) (2010); and

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

COUNT IV

OFFENSIVE DISCHARGES

1- 24. Complainant realleges and incorporates by reference herein Paragraphs 1 through 24 of Count I as Paragraphs 1 through 24 of this Count IV

25. Section 304.106 of the Board Water Pollution Regulations, 35 Ill. Adm.

Code 304.106, provides as follows:

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.

26. Section 301.275 of the Board Water Pollution Regulations, 35 Ill. Adm.

Code 301.275, provides as follows:

Effluent means any wastewater discharged, directly or indirectly, to the waters of the State or to any storm sewer, and the runoff from land used for the disposition of wastewater or sludges, but does not otherwise include nonpoint source discharges such as runoff from land or any livestock management facility or livestock waste handling facility subject to regulation under Subtitle E.

27. The Lift Station's overflow of untreated sewage is an "effluent," within the meaning of Section 301.275 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 301.275.

28. By discharging untreated sewage, an "effluent," into Windsor Lake, the Respondents caused "offensive discharges" in violation of Section 304.106 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 304.106.

29. By violating Section 304.106 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 304.106, the Respondents also violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, WINDSOR LAKE PARTNERSHIPS, JAMES DURKEE, and SANDY SOKOLICK with respect to this Count IV, as follows:

1. Authorizing a hearing in this matter at which time the Respondents will be required to answer the allegations contained herein;
2. Finding that Respondents have violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2010), and Section 304.106 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 304.106;
3. Ordering Respondents to cease and desist from committing any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2010), and Section 304.106 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 304.106;
4. Assessing against Respondents a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and regulations promulgated thereunder, with an additional civil penalty of Ten Thousand Dollars (\$10,000.00) per day of violation;
5. Taxing all costs against Respondents, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action pursuant to 415 ILCS 5/42(f) (2010); and
6. Granting such other relief as the Board deems equitable and just.

COUNT V

SYSTEMS RELIABILITY VIOLATIONS

1- 24. Complainant realleges and incorporates by reference herein Paragraphs 1 through 24 of Count I as Paragraphs 1 through 24 of this Count V.

25. Section 301.415 of the Board Water Pollution Regulations, 35 Ill. Adm.

Code 301.415, provides as follows:

"Treatment works" means individually or collectively those constructions or devices (except sewers, and except constructions or devices used for the pretreatment of wastewater prior to its introduction into publicly owned or regulated treatment works) used for collecting, pumping, treating, or disposing of wastewaters or for the recovery of byproducts from such wastewater.

26. The Lift Station constitutes "treatment works" within the meaning of Section 301.415 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 301.415, in that it consists of a constructions or devices used for collecting, pumping, treating or disposing of wastewaters.

27. Section 306.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm.

Code 306.102(a), provides as follows:

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

28. By failing to maintain the Lift Station's backup systems in operable condition to minimize violations in the event of a power or equipment failure,

Respondents violated Section 306.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 306.102(a).

29. By violating Section 306.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 306.102(a), the Respondents also violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, WINDSOR LAKE PARTNERSHIPS, JAMES DURKEE, and SANDY SOKOLICK with respect to this Count V, as follows:

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

2. Finding that the Respondents have violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2010), and Section 306.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 306.102(a);

3. Ordering Respondents to cease and desist from committing any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2010), and Section 306.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 306.102(a);

4. Assessing against Respondents a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and regulations promulgated thereunder, with an additional civil penalty of Ten Thousand Dollars (\$10,000.00) per day of violation;

5. Taxing all costs against Respondents, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action pursuant to 415 ILCS 5/42(f) (2010); and

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

COUNT VI

OVERFLOWS

1- 24. Complainant realleges and incorporates by reference herein Paragraphs 1 through 24 of Count I as Paragraphs 1 through 24 of this Count VI.

25. Section 306.304 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 306.304, provides as follows:

Overflows from sanitary sewers are expressly prohibited.

26. By allowing the sanitary sewer overflow from the Lift Station, the Respondents violated Section 306.304 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 306.304.

27. By violating Section 306.304 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 306.304, the Respondents also violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Board enter an order against Respondents, WINDSOR LAKE PARTNERSHIPS, JAMES DURKEE, and SANDY SOKOLICK with respect to this Count VI, as follows:


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

2. Finding that Respondents have violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2010), and Section 306.304 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 306.304;

3. Ordering Respondents to cease and desist from committing any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2010), and Section 306.304 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 306.304;
4. Assessing against Respondents a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and regulations promulgated thereunder, with an additional civil penalty of Ten Thousand Dollars (\$10,000.00) per day of violation;
5. Taxing all costs against Respondents, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action pursuant to 415 ILCS 5/42(f) (2010); and
6. Granting such other relief as the Board deems equitable and just.

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

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

By:  (aw)
ROSEMARIE CAZEAU, Chief
Environmental Bureau
Assistant Attorney General

Of Counsel:
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Chicago, Illinois 60601
Ph: (312) 814-1511

CERTIFICATE OF SERVICE

I, Krystyna Bednarczyk, an Assistant Attorney General, do certify that a true and correct copy of the Complaint were sent by certified mail with return receipt requested to the persons listed on the Notice of Filing on February 24, 2011.

BY:



KRYSTYNA BEDNARCZYK