

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

JAN 12 2005

STATE OF ILLINOIS  
Pollution Control Board

Complainant, )

vs. )

PCB No. 05- ~~198~~ 123  
(Enforcement - Water)

CUNAT, INC., an )  
Illinois corporation, )

Respondent. )

NOTICE OF FILING

TO: Christopher D. Oswald  
Mohan Alewelt, Prillaman & Adami  
One North Old Capitol Plaza, Suite 325  
Springfield, Illinois 62701-1323

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board a Complaint, Notice of Filing, and a Certificate of Service on behalf of the People of the State of Illinois, a copy of which is attached and herewith served upon you.

Section 103.204(f) of the Pollution Control Board Procedural Rules, 35 Ill. Adm. Code 103.204(f) provides: "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."

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN  
Attorney General  
State of Illinois

BY: 

ZEMEHERET BEREKET-AB  
Assistant Attorney General  
Environmental Bureau  
188 W. Randolph St., 20th Flr.  
Chicago, IL 60601  
(312) 814-3816

DATE: January 12, 2005



BEFORE THE ILLINOIS POLLUTION CONTROL BOARD JAN 12 2005

PEOPLE OF THE STATE OF ILLINOIS,

Complainant,

vs.

CUNAT, INC., an Illinois corporation,

Respondent.

STATE OF ILLINOIS  
Pollution Control Board

PCB No. 05 ~~119~~ 123  
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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, CUNAT, Inc., an Illinois corporation, as follows:

COUNT I

VIOLATION OF SEWER CONSTRUCTION PERMIT

1. This Complaint is brought on behalf of the 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 ("Illinois EPA") pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2002).

2. The Illinois EPA is an administrative agency established in the executive branch of the State government by Section 4 of the Act, 415 ILCS 5/4 (2002), and charged, *inter alia*, with the duty of enforcing the Act.

3. At all times relevant to this Complaint, Respondent, CUNAT, INC., ("Cunat") is an Illinois corporation in good standing with the Illinois Secretary of State.

4. At all times relevant to this Complaint, Cunat was the developer of the Richmond Condominiums development located on the west side of Route 12, Village of Richmond ("Richmond"), McHenry County, Illinois ("Site").

5. On January 4, 2002, the Illinois EPA issued permit No. 2002-HB-5194 to Cunat to construct a sanitary sewer connection from the Richmond Condominiums to the Village of Richmond's Sewer Treatment Plant ("STP"). The Village of Richmond is the permittee to own and operate the sanitary sewer.

6. On September 8, 2003, the Illinois EPA, received a complaint from the McHenry County Health Department regarding the discharge of raw untreated sewage to the surface of the ground along Route 12 in the Village of Richmond. The sewer serving the Richmond Condominiums was incomplete and raw sewage was spilling on the ground surface.

7. On September 9, 2003, the Illinois EPA inspected the site and observed that sewage had accumulated in a depression that was excavated for the construction of a lift station. During the inspection, accumulated sewage was being pumped from a wet well to a nearby manhole that connected to an existing portion of the Village of Richmond's collection system.

8. The source of the sewage was Cunat's Richmond Condominiums development, which was still under construction at the time of the discharge.

9. Section 12(b) of the Act, 415 ILCS 5/12(b) (2002), provides as follows:

No person shall:

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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.

10. Section 3.315 of the Act, 415 ILCS 5/3.315 (2002), defines person 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.

11. Cunat, a corporation, is a "person" as that term is defined in Section 3.26 of the Act, 415 ILCS 5/3.26 92002).

12. Section 309.202(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.202(a), titled, Construction Permits, provides in pertinent part as follows:

- (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; . . .

13. Special Condition 4 of permit No. 2002-HB-5194 provides as follows:

The operational portion of this permit is contingent upon completion of construction and start of operation of all downstream transporting and treating facilities.

14. Cunat discharged untreated sewage to a sewer line prior to the completion of construction of such sewer line in violation of Special Condition 4 of permit No. 2002-HB-5194.

15. By allowing raw sewage to be discharged to the uncompleted sewer line in violation of Special Condition 4 of construction permit No. 2002-HB-5194, Respondent violated Section 12(b) of the Act, 415 ILCS 5/12(b) (2002), and 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 Respondent, CUNAT, INC., on this Count I:

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

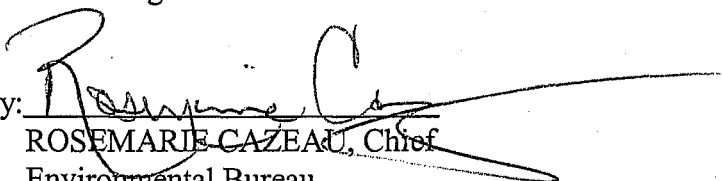
2. Finding that Respondent has caused or allowed violations of Section 12(b) of the Act, 35 Ill. Adm. Code 309.202(a) and Special Condition 4 of permit No. 2002-HB-5194;

3. Ordering Respondent to cease and desist from any further violations of Section 12(b) of the Act, 35 Ill. Adm. Code 309.202(a) and permit conditions;
4. Assessing a civil penalty of \$50,000 against Respondent for each violation of the Act and 35 Ill. Adm. Code 309.202(a), with an additional civil penalty of \$10,000 per day for each day that each violation continued;
5. Taxing all costs in this action, including expert witness, consultant and attorneys fees, against Respondent; 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

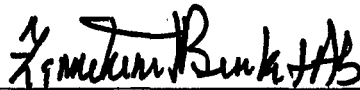
Of Counsel:

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Environmental Bureau North  
188 West Randolph Street, 20<sup>th</sup> Floor  
Chicago, Illinois 60601  
(312) 814-3816  
(312) 814-2347 - fax

CERTIFICATE OF SERVICE

I, the undersigned, certify that I have served the attached Complaint, Notice of Filing, and Certificate of Service via United States Postal certified mail upon the following person:

Christopher D. Oswald  
Mohan Alewelt, Prillaman & Adami  
One North Old Capitol Plaza, Suite 325  
Springfield, Illinois 62701-1323



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ZEMEHERET BEREKET-AB  
Assistant Attorney General  
Environmental Bureau  
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