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MAY 23 2005

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.)
)
 GREG RUDEEN, individually, and)
 d/b/a ROCK RIVER TOWNHOMES and)
 d/b/a RUDEEN AND ASSOCIATES,)
)
 Respondent.)

PCB No. 05- 200
(Enforcement - Water)

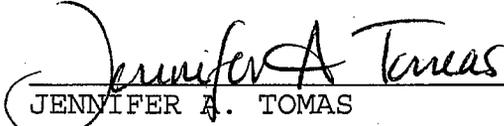
NOTICE OF FILING

To: See Attached Service List.

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Pollution Control Board Complainant's Complaint for Civil Penalties, a copy of which is 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 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.

LISA MADIGAN
Attorney General
State of Illinois


JENNIFER A. TOMAS

May 23, 2005

Jennifer A. Tomas
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PCB No. 05-200
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COMPLAINT FOR CIVIL PENALTIES

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, GREG RUDEEN, individually, and d/b/a ROCK RIVER TOWNHOMES and d/b/a RUDEEN AND ASSOCIATES, as follows:

COUNT I
WATER POLLUTION

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), and is an action for civil penalties.

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 is charged, *inter alia*, with the duty of enforcing the Act. This Count is brought pursuant to Section 31 of the Act, 415 ILCS 5/31 (2002).

3. At all times relevant to this Complaint, Greg Rudeen ("Rudeen") was and is the owner and developer of Rock River Townhomes, a residential development at the intersection of Clifford Avenue and Park Ridge Road, Loves Park, Winnebago County, Illinois ("Site"). Greg Rudeen has done business as Rock River Townhomes and Rudeen and Associates, both unincorporated entities.

4. On May 14, 2004, the Illinois EPA inspected the Site. There were areas of the Site containing no stabilizing or erosion control structures to protect disturbed earth from eroding. The east side of the Site had silt evidences of runoff leading to a center drive/parking area. The north area of the Site had unstabilized soil and erosion trails leading onto adjacent property. The south side of the Site contained an unprotected stockpile of earth. The west portion of the property is located on the banks of the Rock River with only a sea-wall separating the development and the river. Sediment was seen on the sea-wall; pooled storm water and unstabilized soil were visible with no silt or erosion controls in place.

5. Rock River Townhomes had coverage under the general

National Pollutant Discharge Elimination System ("NPDES") permit. However, Rudeen filed a Notice of Termination ("NOT") for coverage under the NPDES permit on June 25, 2003 and that termination was granted on July 7, 2003. Rudeen prematurely sought termination of the NPDES permit for Rock River Townhomes before demonstrating that the coverage was no longer necessary.

6. Section 3.545 of the Act, 415 ILCS 5/3.545 (2002), 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.

7. Section 3.315 of the Act, 415 ILCS 5/3.315 (2002), 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.

8. Respondent Rudeen is a "person" as that term is defined in 415 ILCS 5/3.315 (2002).

9. Section 3.165 of the Act, 415 ILCS 5/3.165 (2002), provides the following definition:

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

10. Soil and sediment are "contaminants" as that term is defined in 415 ILCS 5/3.165 (2002).

11. Section 3.550 of the Act, 415 ILCS 5/3.550 (2002), provides 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.

12. The Rock River is "waters" as that term is defined in 415 ILCS 5/3.550 (2002).

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

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.

14. Respondent Rudeen, by allowing unstabilized areas of the Site including areas located on the banks of the Rock River to remain unprotected from erosion, causing, threatening and allowing sediment-laden storm water runoff on and off Site, caused, threatened or allowed water pollution in violation of

Section 12(a) of the Act, 415 ILCS 5/12(a) (2002).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, GREG RUDEEN, individually, and d/b/a ROCK RIVER TOWNHOMES and d/b/a RUDEEN AND ASSOCIATES, for the following relief:

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(a) of the Act, 415 ILCS 5/12(a) (2002);
3. Order Respondent to cease and desist from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2002);
4. Order Respondent to remediate the environmental damage caused to the waters of the State of Illinois;
5. Assess against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and Board regulations, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
6. Order Respondent to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2002), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and
7. Grant such other relief as the Board deems appropriate

and just.

COUNT II
WATER POLLUTION HAZARD

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

13. Section 12(d) of the Act, 415 ILCS 5/12(d) (2002), states 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.

14. By depositing soil and sediment on the land in such place and manner as to create a water pollution hazard to waters of the State, Rudeen is in violation of Section 12(d) of the Act, 415 ILCS 5/12(d) (2002).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, GREG RUDEEN, individually, and d/b/a ROCK RIVER TOWNHOMES and d/b/a RUDEEN AND ASSOCIATES, for the following relief:

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(d) of the Act, 415 ILCS 5/12(d) (2002);

3. Order Respondent to cease and desist from any further violations of Section 12(d) of the Act, 415 ILCS 5/12(d) (2002);

4. Order Respondent to remediate the environmental damage caused to the waters of the State of Illinois;

5. Assess against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and Board regulations, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

6. Order Respondent to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2002), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

7. Grant such other relief as the Board deems appropriate and just.

COUNT III
VIOLATIONS OF NATIONAL POLLUTANT DISCHARGE
ELIMINATION SYSTEM PERMIT

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

13. Section 12(f) of the Act, 415 ILCS 5/12(f) (2002), 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.

14. Section 309.102(a) of the Illinois Pollution Control Board's ("Board") Water Pollution regulations, 35 Ill. Adm. Code 309.102(a), provides as follows:

- a) Except as in compliance with the provisions 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.

15. Pursuant to Section 12(f) of the Act, 415 ILCS 5/12(f) (2002), and Section 309.102(a) of the Board's Water Pollution regulations, 35 Ill. Adm. Code 309.102(a), Respondent is required to obtain coverage under the general National Pollutant Discharge Elimination System ("NPDES") storm water permit for construction site activities ("general NPDES storm water permit") and maintain that coverage until such time that

construction ceased or the Site was stabilized.

16. Rudeen obtained coverage under the general NPDES storm water permit prior to beginning construction. However, after the Illinois EPA inspected the Site on May 14, 2004, it was ascertained that Rudeen had filed a Notice of Termination on June 25, 2003 and ceased coverage under the NPDES permit on July 7, 2003, prematurely terminating coverage before soil and sediment at the Site were fully stabilized.

17. By prematurely terminating his NPDES permit coverage at the Site prior to full stabilization and causing, threatening or allowing the deposit of contaminants into waters of the State, Rudeen violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2002), and Section 309.102(a) of the Board's Water Pollution regulations.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, GREG RUDEEN, individually, and d/b/a ROCK RIVER TOWNHOMES and d/b/a RUDEEN AND ASSOCIATES, for the following relief:

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(f) of the Act, 415 ILCS 5/12(f) (2002), and Section 309.102(a) of the

Board's Water Pollution regulations, 35 Ill. Adm. Code

309.102(a);

3. Order Respondent to cease and desist from any further violations of Section 12(f) of the Act, 415 ILCS 5/12(f)(2002), and Section 309.102(a) of the Board's Water Pollution regulations, 35 Ill. Adm. Code 309.102(a);

4. Order Respondent to remediate the environmental damage caused to the waters of the State of Illinois;

5. Assess against the Respondent a civil penalty of Ten Thousand Dollars (\$10,000.00) per day for each violation;

6. Order Respondent to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f)(2002), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

7. Grant such other relief as the Board deems appropriate 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:

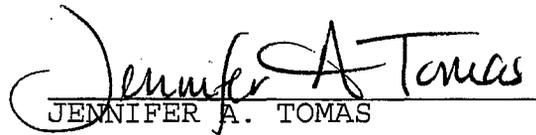

ROSEMARIE CAZEAU, Chief
Environmental Bureau
Assistant Attorney General

Of Counsel:

JENNIFER A. TOMAS
Assistant Attorney General
Environmental Bureau
188 West Randolph Street, Suite 2001
Chicago, Illinois 60601
(312) 814-0609

CERTIFICATE OF SERVICE

I, JENNIFER A. TOMAS, an Assistant Attorney General, certify that on the 23rd day of May 2005, I caused to be served by Certified Mail, Return Receipt Requested, the foregoing Complaint to the parties named on the attached service list, by depositing same in postage prepaid envelopes with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois 60601.


JENNIFER A. TOMAS