

ORIGINAL

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

Complainant,

vs.

ILLINOIS-AMERICAN WATER COMPANY,
an Illinois corporation,

Respondent.

RECEIVED
CLERK'S OFFICE

AUG 01 2005

STATE OF ILLINOIS
Pollution Control Board

PCB No. 06-15
(Enforcement - PWS)

NOTICE OF FILING

TO: CT Corporation System
208 South LaSalle Street, Suite 814
Chicago, Illinois 60604

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: August 1, 2005

ORIGINAL

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, *ex rel.*)
LISA MADIGAN, Attorney General)
of the State of Illinois,)
)
Complainant,)
)
v.)
)
ILLINOIS-AMERICAN WATER)
COMPANY, an Illinois corporation,)
)
Respondent.)

PCB No. 06-15
(Enforcement - Public Water Supply)

COMPLAINT

NOW COMES THE Complainant, PEOPLE OF THE STATE OF ILLINOIS, *ex rel.*
LISA MADIGAN, Attorney General of the State of Illinois, and complains of Respondent,
ILLINOIS-AMERICAN WATER COMPANY, an Illinois corporation, as follows:

COUNT I

FAILURE TO OBTAIN AN OPERATING PERMIT

1. This complaint is brought pursuant to Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2002), 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.

2. The Illinois Environmental Protection Agency ("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, Illinois-American Water Company (“Respondent”) is an Illinois corporation in good standing.

4. At all times relevant to this Complaint, Respondent is the operator of the public water supply that serves the new Home Depot store number 1989, located on 143rd Street and Bell Road, Homer Township, Will County, Illinois (“construction site” or “project”).

5. Respondent is responsible for obtaining an operating permit for the water mains in its system, including the water mains installed to serve the project.

6. On November 17, 2003, Respondent placed in operation the 88-feet of 6-inch water main and 2,303 feet of 10-inch water main without first applying for and obtaining an operating permit from the Illinois EPA.

7. On January 5, 2004, Respondent applied for an operating permit for the water mains after having already placed the water mains in operation.

8. On January 9, 2004, the Illinois EPA issued operating Permit No. 0431-FY2004/04 to Respondent.

9. Section 18(a) (3) of the Act, 415 ILCS 5/18(a) (3) (2002), titled, Prohibitions; plugging requirements, provides as follows:

(a) No person shall:

* * *

(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.

10. Section 602.101(a) of the Illinois Pollution Control Board Public Water Supplies Regulations, 35 Ill. Adm. Code 602.101(a), titled, Construction Permit, provides as follows:

- a) 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.

11. 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.

12. Illinois-American Water Company is a person as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2002).

13. Section 3.365 of the Act, 415 ILCS 5/3.365 (2002), defines public water supply as follows:

"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 plans, 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".

14. The water mains at issue are a public water supply, as the mains are structures through which water is obtained and distributed to the public and as it serves more than 15 service connections which regularly serve more than 25 persons as defined in Sections 3.365, 415 ILCS 5/3.365 (2002).

15. As a person causing or allowing the operation of a public water supply, Respondent is required to first obtain an operating permit from the Illinois EPA prior to placing the water main in operation.

16. Respondent operated the water mains described herein, without first obtaining an operating permit from the Illinois EPA.

17. By operating the water mains at the project without first obtaining an operating permit from the Illinois EPA, Respondent violated Section 18(a) (3) of the Act, 415 ILCS 5/18(a) (3) (2002).

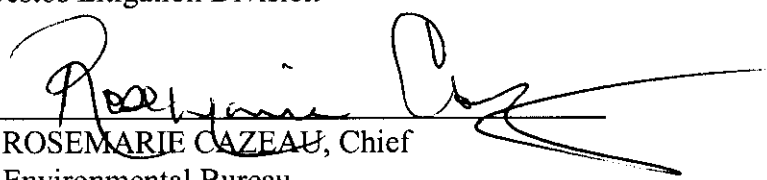
WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent and in favor of Complainant:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Section 18(a) (3) of the Act;
3. Ordering Respondent from further violations of Section 18(a) (3) of the Act;
4. Assessing against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of the Act and Board regulations, with an additional civil penalty of Ten Thousand Dollars (\$10,000.00) per day for each day of each violation;
5. Taxing all costs in this action, including attorney, expert witness and consultant fees, against the 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

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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:

CT Corporation System
208 South LaSalle Street, Suite 814
Chicago, Illinois 60604



ZEMEHERET BEREKET-AB
Assistant Attorney General
Environmental Bureau
188 W. Randolph St., 20th Flr.
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