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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD MAR 18 2004

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
vs.)
)
THE FIELDS OF LONG GROVE HOME OWNER'S)
ASSOCIATION, an Illinois corporation,)
)
Respondent.)

STATE OF ILLINOIS
Pollution Control Board

No. 04-164
(Enforcement)

To: Ms. Karen Grandt
The Fields of Long Grove Home Owner's Association
4624 RFD
Long Grove, Il. 60047

NOTICE OF FILING

PLEASE TAKE NOTICE that we have today, March 18, 2004 filed with the Office of the Clerk of the Illinois Pollution Control Board an original and nine copies of our Complaint, a copy of which is attached herewith and 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.

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.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS
LISA MADIGAN
Attorney General of the
State of Illinois
BY: Paula Becker Wheeler
PAULA BECKER WHEELER
Assistant Attorney General
Environmental Bureau
188 W. Randolph St., 20th Flr.
Chicago, IL 60601 (312) 814-1511

MAR 18 2004

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)
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 Complainant,)
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 vs.)
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 THE FIELDS OF LONG GROVE HOME OWNER'S)
 ASSOCIATION, an Illinois corporation,)
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 Respondent.)

No. 04-164
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COMPLAINT

The PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of the Respondent, THE FIELDS OF LONG GROVE HOME OWNER'S ASSOCIATION, an Illinois corporation, as follows:

COUNT I

FAILURE TO OBTAIN CONSTRUCTION PERMITS

1. This Count 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), to restrain ongoing violations of the Act and for civil penalties.

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 (2002), and charged, *inter alia*, with the duty of

enforcing the Act.

3. At all times relevant to this complaint, Respondent, THE FIELDS OF LONG GROVE HOME OWNER'S ASSOCIATION("FOLG"), was and is an Illinois corporation located in Long Grove, Lake County, Illinois, doing business in the State of Illinois. FOLG is located in south-central Lake County, northeast of Lake Zurich, Illinois.

4. At all times relevant to this complaint, FOLG was and is a privately owned utility company that operates a public water supply ("PWS") in the County of Lake, Illinois. It services approximately 267 consumers through 89 direct connections.

5. FOLG currently obtains water from three wells. The water is disinfected with chlorine, passes into two hydropneumatic storage tanks, and then enters the distribution system.

6. Respondent's operation of the utility is subject to the Act and the 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 Regulations for Public Water Supplies"), 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 Regulations for Public Water Supplies").

7. Section 15(a) of the Act, 415 ILCS 5/15(a) (2002), provides as follows:

- (a) 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.

8. Section 18(a) of the Act, 415 ILCS 5/18 (a) (2002), provides as follows:

- a. 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.

9. Section 602.101(a) of the Board's Regulations for Public Water Supplies, 35 Ill. Adm. Code 602.101(a), 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.

10. Sections 3.315 and 3.365 of the Act, 415 ILCS 5/3.315, and 5/3.365 (2002), 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.

"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".

11. Respondent is a "person" as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315(2002).

12. FOLG is also a "public water supply" as that term is defined in Section 3.365 of the Act, 415 ILCS 5/3.365(2002).

13. On February 25, 2003, Respondent was operating at the utility a phosphate feed system which had been installed without any construction permit and without submission of any plans and specifications to the Agency.

14. In addition, on February 25, 2003, Respondent was operating a chlorine chemical feed system with a chlorine chemical solution tank which had been installed without any construction permit and without any submission of plans and specifications to the Agency.

15. On February 26, 2003, FOLG applied for a construction permit for the phosphate feed system, and submitted, for the first time, plans and specifications.

16. On March 12, 2003, the Agency denied the application because the submittal failed to meet the minimum design standards and the project was already constructed.

17. On April 6, 2003, the Respondent submitted additional information for the phosphate feed construction permit, but was again denied for failure to meet minimum design standards. Eventually, at a time better known to Respondent, Respondent dismantled the phosphate feed equipment.

18. After February 25, 2003, but before the filing of this complaint, on a date better know to the Respondent, the Respondent dismantled the unpermitted chlorine chemical solution tank, and replaced it with a properly permitted tank.

19. Respondent, by its actions as alleged herein, has violated Sections 15(a) and 18(a) of the Act, 415 ILCS 5/15(a), 18(a)(2002), and Section 602.101(a) of the Board Regulations for Public Water Supplies, 35 Ill. Adm. Code 602.101(a).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, THE FIELDS OF LONG GROVE HOME OWNER'S ASSOCIATION on this Count I:

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

B. Finding that Respondent has violated Sections 15(a) and 18(a) of the Act, 415 ILCS 5/15(a), 18(a)(2002), and Section 602.101(a) of the Board Regulations for Public Water Supplies, 35 Ill. Adm. Code 602.101(a);

C. Ordering Respondent to cease and desist from any further violations of Sections 15(a) and 18(a) of the Act, 415 ILCS 5/15(a), 18(a)(2002), and Section 602.101(a) of the Board Regulations for Public Water Supplies, 35 Ill. Adm. Code 602.101(a);

D. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000) against Respondent for each violation of the Act and pertinent regulations, and an additional civil penalty of Ten Thousand Dollars (\$10,000) for each day of violation;

E. Ordering Respondent to pay all costs, pursuant to

Section 42(f) of the Act, including attorney, expert witness, and consultant fees expended by the state in its pursuit of this action; and

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

COUNT II

FAILURE TO OBTAIN OPERATING PERMITS

1-16. Complainant realleges and incorporates by reference herein Paragraphs 1 through 6, 8, and 10 through 18 of Count I as Paragraphs 1 through 16 of this Count II.

17. As of February 25, 2003, or before, Respondent had completed the construction of the phosphate feed system and the chlorine feed system and put them into operation without any proper operating permits.

18. Section 602.102 of the Board Regulations for Public Water Supplies, 35 Ill. Adm. Code 602.102, provides as follows:

Operating Permits

No owner or operator of a public water supply shall cause or allow the use or operation of any new public water supply, or any new addition to an existing supply, for which a Construction Permit is required under this Part, without an Operating Permit issued by the Agency.

19. By failing to secure operating permits for the phosphate feed system and the chlorine feed system, Respondent has violated Section 18(a) of the Act, 415 ILCS 5/18(a) (2002), and Section 602.102 of the Board Regulations for Public Water

Supplies, 35 Ill. Adm. Code 602.102.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, THE FIELDS OF LONG GROVE HOME OWNER'S ASSOCIATION on this Count II:

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

B. Finding that Respondent has violated Section 18(a) of the Act, 415 ILCS 5/18(a) (2002), and Section 602.102 of the Board Regulations for Public Water Supplies, 35 Ill. Adm. Code 602.102;

C. Ordering Respondent to cease and desist from any further violations of Sections 18(a) of the Act, 415 ILCS 5/18(a) (2002), and Section 602.102 of the Board Regulations for Public Water Supplies, 35 Ill. Adm. Code 602.102;

D. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000) against Respondent for each violation of the Act and pertinent regulations, and an additional civil penalty of Ten Thousand Dollars (\$10,000) for each day of violation;

E. Ordering Respondent to pay all costs, pursuant to Section 42(f) of the Act, including attorney, expert witness, and consultant fees expended by the state in its pursuit of this action; and


F. Granting 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:

PAULA BECKER WHEELER
Assistant Attorney General
Environmental Bureau
188 W. Randolph Street, 20th Floor
Chicago, IL 60601
(312) 814-1511

CERTIFICATE OF SERVICE

I, PAULA BECKER WHEELER, an attorney, do certify that I caused to be served this 18th day of March, 2004, the foregoing Complaint and Notice of Filing upon the person listed on said Notice, by Certified Mail.



PAULA BECKER WHEELER