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**APR 28 2005**

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

STATE OF ILLINOIS  
Pollution Control Board

PEOPLE OF THE STATE OF  
ILLINOIS,

Complainant,

vs.

CASTLE RIDGE ESTATES,  
INCORPORATED, an Illinois  
corporation,

Respondent.

PCB No. 05-191  
(Enforcement)

**NOTICE OF FILING**

To: John Durako  
Registered Agent  
1808 S. Illinois Street  
Belleville, IL 62220

PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois, a COMPLAINT, a copy of which is attached hereto and 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 this 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.

FURTHER, please take notice that financing may be available, through the Illinois Environmental Facilities Financing Act, 20 ILCS 3515/1 (2002), to correct the pollution alleged in the Complaint filed in this case.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN,  
Attorney General of the  
State of Illinois

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

BY: 

J. L. HOMAN  
Assistant Attorney General  
Environmental Bureau

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: April 25, 2005

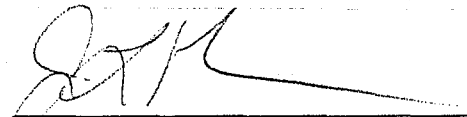
## CERTIFICATE OF SERVICE

I hereby certify that I did on April 25, 2005, send by certified mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instruments entitled NOTICE OF FILING, ENTRY OF APPEARANCE and COMPLAINT:

To: John Durako  
Registered Agent  
1808 S. Illinois Street  
Belleville, IL 62220

and the original and ten copies by First Class Mail with postage thereon fully prepaid of the same foregoing instrument(s):

To: Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
Suite 11-500  
100 West Randolph  
Chicago, Illinois 60601



J. L. Homan  
Assistant Attorney General

This filing is submitted on recycled paper.

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

APR 28 2005

STATE OF ILLINOIS  
Pollution Control Board

PEOPLE OF THE STATE OF  
ILLINOIS,

Complainant,

vs.

CASTLE RIDGE ESTATES,  
INCORPORATED, an Illinois  
corporation,

Respondent.

PCB No. 05-191  
(Enforcement)

ENTRY OF APPEARANCE

On behalf of the Complainant, PEOPLE OF THE STATE OF ILLINOIS, J. L. HOMAN,  
Assistant Attorney General of the State of Illinois, hereby enters her appearance as attorney of  
record.

Respectfully submitted,

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

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

BY:

J. L. HOMAN  
Environmental Bureau  
Assistant Attorney General

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: April 25, 2005

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD APR 28 2005  
MADISON COUNTY, ILLINOIS

STATE OF ILLINOIS  
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
-vs- )  
)  
CASTLE RIDGE ESTATES, INCORPORATED, )  
an Illinois corporation, )  
)  
Respondent. )

PCB No. 05-191  
(Enforcement)

COMPLAINT

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, complains of the Respondent, Castle Ridge Estates, Incorporated, as follows:

COUNT I  
NPDES PERMIT VIOLATIONS

1. This Complaint is brought by the Attorney General 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 agency of the State of Illinois created by the Illinois General Assembly under Section 4 of the Act, 415 ILCS 5/4 (2002), and charged, *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board ("Board").
3. The Respondent, Castle Ridge Estates, Incorporated, is an Illinois corporation. The registered agent is John Durako and he may be reached at 1808 S. Illinois St., Belleville, St. Clair County, Illinois.

5. Castle Ridge Estates is a one-hundred forty acre residential development located on the west side of the Troy-O'Fallon Road approximately two and a half miles south of Troy, Madison County, Illinois (the "site").

6. The Respondent is and was at all times relevant to this Complaint the owner and developer of Castle Ridge Estates.

7. Section 12 of the Act, 415 ILCS 5/12 (2002), provides in pertinent part:

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;

\* \* \*

- c. Increase the quantity or strength of any discharge of contaminants into the waters, or construct or install any sewer or sewage treatment facility or any new outlet for contaminants into the waters of this State, without a permit granted by the Agency.

\* \* \*

- f. Cause, threaten or allow the discharge of any contaminants into the waters of the State, as defined herein, including but not limited to, water 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 with respect to the NPDES program.

\* \* \*

8. Section 3.165 of the Act, 415 ILCS 5/3.165 (2002), provides as follows:

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

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

10. Section 3.545 of the Act, 415 ILCS 5/3.545 (2002), provides as follows:

"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.

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

"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 the State.

12. The federal Clean Water Act regulates the discharge of pollutants from a point source into navigable waters and prohibits such point source discharges without an NPDES permit. The United States Environmental Protection Agency ("USEPA") administers the NPDES program in each State unless the USEPA has delegated authority to do so to that State. The USEPA has authorized the State of Illinois to issue NPDES permits through the Illinois EPA in compliance with federal regulations.

13. Storm water discharges are regulated by 40 CFR 122.26, which requires a person to obtain an NPDES permit and to implement a stormwater pollution prevention plan for construction activity including clearing, grading and excavation:

(a) Permit requirement.

- (1) Prior to October 1, 1994, discharges composed entirely of storm water shall not be required to obtain a NPDES permit except:

\* \* \*

(ii) A discharge associated with industrial activity (see § 122.26(a)(4));

\* \* \*

- (4) Discharges through large and medium municipal separate storm sewer systems. . . .

\* \* \*

- (9) (i) On and after October 1, 1994, for discharges composed entirely of storm water, that are not required by paragraph (a)(1) of this section to obtain a permit, operators shall be required to obtain a NPDES permit only if:

\* \* \*

- (B) The discharge is a storm water discharge associated with small construction activity pursuant to paragraph (b)(15) of this section;

\* \* \*

(b) Definitions.

- (14) Storm water discharge associated with industrial activity means the discharge from any conveyance that is used for collecting and conveying storm water and that is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. . . . The following categories of facilities are considered to be engaging in "industrial activity" for purposes of paragraph (b)(14):

\* \* \*

- (x) Construction activity including clearing, grading and excavation, except operations that result in the disturbance of less than five acres of total land area. Construction activity also includes the disturbance of less than five acres of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or more;

\* \* \*

- (15) Storm water discharge associated with small construction activity means the discharge of storm water from:

- (i) Construction activities including clearing, grading, and excavating that result in land disturbance of equal to or greater than one acre and less than five acres. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres.



\* \* \*

14. On May 23, 2001, the Illinois EPA conducted an inspection prior to the construction of a proposed wastewater treatment plant ("WWTP") at the site. There were ongoing construction activities at the site including clearing, grading, and excavating that had resulted in land disturbance of equal to or greater than five acres. The measures or controls provided to prevent or minimize pollution from storm water runoff at the site were inadequate.

15. As of May 23, 2001, the Respondent had not obtained coverage under the State's general storm water NPDES permit.

16. By disturbing more than five acres without first obtaining coverage under an NPDES general stormwater permit, and by threatening the discharge of any contaminants into the waters of the State without an NPDES permit for point source discharges the Respondent has violated 40 CFR 122.26 and Section 12(f) of the Act, 415 ILCS 5/12(f) (2002).

#### **PRAYER FOR RELIEF**

WHEREFORE, the Complainant, People of the State of Illinois, respectfully requests that this Board grant the following relief:

- A. Authorize a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Find that the Respondent has violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2002);
- C. Order the Respondent to cease and desist from further violations of the Act and its regulations;
- D. Assess against the Respondent a monetary penalty in accordance with the statutes; and
- E. Grant such other and further relief as this Board deems appropriate.

**COUNT II**  
**WATER POLLUTION VIOLATIONS**

1-14. Complainant realleges and incorporates herein by reference paragraphs 1-14 of the above Count I as a paragraphs 1-14 of this Count II.

15. By failing to implement adequate measures or controls to prevent or minimize pollution from storm water runoff at the site, the Respondent has threatened or allowed the discharge of silt and other contaminants from the construction site into waters of the State so as to cause or tend to cause water pollution by creating a nuisance.

16. By so threatening to cause water pollution, the Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2002).

**PRAYER FOR RELIEF**

WHEREFORE, the Complainant, People of the State of Illinois, respectfully requests that this Board grant the following relief:

- A. Authorize a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Find that the Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2002);
- C. Order the Respondent to cease and desist from further violations of the Act and its regulations;
- D. Assess against the Respondent a monetary penalty in accordance with the statutes; and
- E. Grant such other and further relief as this Board deems appropriate.

**COUNT III**  
**CONSTRUCTION WITHOUT PERMIT VIOLATIONS**

1-14. Complainant realleges and incorporates herein by reference paragraphs 1-14 of the above Count I as a paragraphs 1-14 of this Count III.

15. Section 309.202(a) of the Board's Regulations, 35 Ill. Adm. Code 309.202(a) provides:

Except for treatment works or wastewater sources which have or will have discharges for which NPDES Permits are required, and for which NPDES Permits have been issued by the Agency:

- 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, except as provided in paragraph (b).

16. On a date prior to 2001 and better known to the Respondent, the Respondent installed a sewer collection system throughout Castle Ridge Estates for eventual connection to the proposed WWTP. During this time, the Respondent also installed potable water lines for eventual connection to the homes under construction.

17. The Illinois EPA had issued a permit for the potable water lines on October 30, 2000. The Respondent failed, however, to apply for and obtain a permit for the sewer lines.

18. By installing a sewer collection system without first obtaining a construction permit from the Illinois EPA, the Respondent has violated Section 12(c) of the Act, 415 ILCS 5/12(c) (2002) and Section 309.202(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 309.202(a).

#### **PRAYER FOR RELIEF**

WHEREFORE, the Complainant, People of the State of Illinois, respectfully requests that this Board grant the following relief:

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

B. Find that the Respondent has violated Sections 12(c) of the Act, 415 ILCS 5/12(c)(2002), and 35 Ill. Adm. Code 309.202(a);

C. Order the Respondent to cease and desist from further violations of the Act and its regulations;

D. Assess against the Respondent a monetary penalty in accordance with the statutes; and

E. Grant such other and further relief as this Board deems appropriate.

Respectfully submitted,

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

MATTHEW J. DUNN, Chief  
Environmental Enforcement Division

BY: 

THOMAS DAVIS, Chief  
Environmental Bureau  
Assistant Attorney General

Of Counsel

J. L. Homan

Assistant Attorney General  
Environmental Bureau/Springfield  
500 South Second Street  
Springfield, Illinois 62706

Date: 4/26/05