



RECEIVED
CLERK'S OFFICE

JUL 06 2005

**OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS**

**STATE OF ILLINOIS
Pollution Control Board**

Lisa Madigan
ATTORNEY GENERAL

July 1, 2005

PLB 06-04

The Honorable Dorothy Gunn
Illinois Pollution Control Board
James R. Thompson Center, Ste. 11-500
100 West Randolph
Chicago, Illinois 60601

Re: ***People v. Leonard Foster, d/b/a Rivercrest Mobile Home Park***

Dear Clerk Gunn:

Enclosed for filing please find the original and ten copies of a NOTICE OF FILING, COMPLAINT and APPEARANCE in regard to the above-captioned matter. Please file the originals and return file-stamped copies of the documents to our office in the enclosed, self-addressed envelope.

Thank you for your cooperation and consideration.

Very truly yours,

Kristen Laughridge
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706
(217) 782-9031

KL/pp
Enclosures

RECEIVED
CLERK'S OFFICE

JUL 06 2005

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF)
ILLINOIS,)

Complainant,)

vs.)

LEONARD FOSTER, d/b/a RIVERCREST)
MOBILE HOME PARK,)

Respondent.)

PCB No. *06-04*
(Enforcement)

NOTICE OF FILING

To: Leonard Foster
d/b/a Rivercrest Mobile Home Park
6933 South Route 45-52
Chebanse, IL 60922

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.

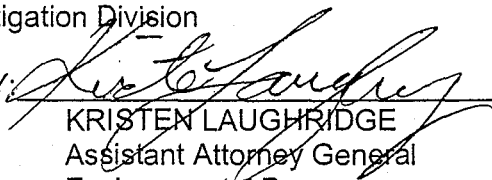
Respectfully submitted,

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:


KRISTEN LAUGHRIDGE
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: July 1, 2005

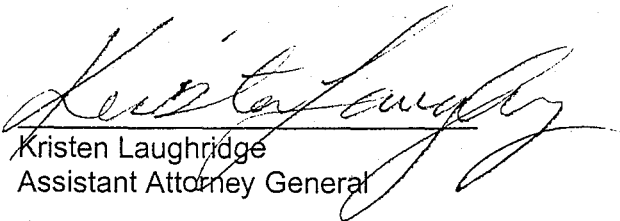
CERTIFICATE OF SERVICE

I hereby certify that I did on July 1, 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: Leonard Foster
d/b/a Rivercrest Mobile Home Park
6933 South Route 45-52
Chebanse, IL 60922

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


Kristen Laughridge
Assistant Attorney General

This filing is submitted on recycled paper.

RECEIVED
CLERK'S OFFICE

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

JUL 06 2005

PEOPLE OF THE STATE OF)
ILLINOIS,)

Complainant,)

vs.)

LEONARD FOSTER, d/b/a RIVERCREST)
MOBILE HOME PARK,)

Respondent.)

STATE OF ILLINOIS
Pollution Control Board

PCB No. *06-04*
(Enforcement)

ENTRY OF APPEARANCE

On behalf of the Complainant, PEOPLE OF THE STATE OF ILLINOIS, KRISTEN LAUGHRIDGE, 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:

Kristen Laughridge
KRISTEN LAUGHRIDGE
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: July 1, 2005

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

JUL 06 2005

STATE OF ILLINOIS
Pollution Control Board

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

Complainant,

v.

LEONARD FOSTER d/b/a RIVERCREST
MOBILE HOME PARK,

Respondent.

NO. PCB 06-04
(Enforcement)

COMPLAINT

The PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, LEONARD FOSTER d/b/a RIVERCREST MOBILE HOME PARK, as follows:

COUNT I

INADEQUATE WATER CAPACITY

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 in 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. This Complaint is brought pursuant to Section 31 of the Act, 415 ILCS 5/31 (2002), after providing Respondent with notice and the opportunity for a meeting with the Illinois EPA.

4. Respondent, Leonard Foster, has at all times relevant to this Complaint owned and operated the Rivercrest Mobile Home Park ("Park"). The Park is located at 6933 South Route 45-52, Chebanse, Kankakee County, Illinois.

5. The Park includes a "public water supply" as that term is defined under Section 3.365 of the Act, 415 ILCS 5/3.365 (2002), 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 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.

6. Respondent's public water supply is a "PWS" or "public water system", a "CWS" or "community water system", and a "GWS" or "groundwater system", as those terms are defined under Section 611.101 of the Pollution Control Board's ("Board") Public Water Supplies Regulations, 35 Ill. Adm Code 611.101, as follows:

"COMMUNITY WATER SYSTEM" or "CWS" means a public water system (PWS) that serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

* * *

"GWS" means "groundwater system", a public water supply (PWS) that uses only groundwater sources.

* * *

"PUBLIC WATER SYSTEM" or "PWS" means a system for the provision to the public of piped water for human consumption, if such system has at least fifteen service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. A PWS is either a community water system (CWS) or a non-community water system (non-CWS). Such term includes:

Any collection, treatment, storage and distribution facilities under control of the operator of such system and used primarily in connection with such system; and

Any collection or pretreatment storage facilities not under such control that are used primarily in connection with such system.

7. The Park's PWS has 17 service connections and serves approximately 35 residents. The PWS is located on the east end of the Park and is designed so that water is pumped out of one well (Well #1) to a 500-gallon pressure tank, and distributed to the residences.

8. Section 18(a) of the Act, 415 ILCS 5/18(a) (2002), provides, in pertinent part:

(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 Board under this Act. . .

* * *

9. Respondent, an individual owning and operating a public water supply, is a person as that term is defined under Section 3.315 of the Act, 415 ILCS 5/3.315 (2002), as follows:

"PERSON" is any individual, partnership, copartnership, 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. Respondent is a "supplier" as that term is defined under Section 611.101 of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 611.101, as follows:

"SUPPLIER OF WATER" or "SUPPLIER" means any person who owns or operates a public water system (PWS). This term includes the "official custodian."

11. Respondent's public water system is a "small system" as that term is defined under Section 611.350 of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 611.350, as follows:

"SMALL SYSTEM" means a water system that regularly serves water to 3,300 or fewer persons.

12. Section 601.101 of the Board's Public Water Supply Regulations, 35 Ill. Adm.

Code 606.101, provides in pertinent part:

Owners and official custodians of a public water supply in the State of Illinois shall provide pursuant to the Environmental Protection Act [415 ILCS 5] (Act), the Pollution Control Board (Board) Rules, and the Safe Drinking Water Act (42 U.S.C. 300f et seq.) continuous operation and maintenance of public water supply facilities so that the water shall be assuredly safe in quality, clean, adequate in quantity, and of satisfactory mineral characteristics for ordinary domestic consumption.

13. Sections 653.109(d) and (e) of the Board's Public Water Supply Regulations, 35

Ill. Adm. Code 653.109(d) and (e), provides in pertinent part:

- d) Finished water shall be delivered at a rate greater than the maximum hourly rate of usage.
- e) Actual capacity of the well pump or high service pump used to deliver water to the distribution system through the pressure tank shall be greater than the maximum hourly rate of usage.

* * *

14. Section 654.202 of the Board's Public Water Supply Regulations, 35 Ill. Adm.

Code 654.202, provides in pertinent part:

- a) Ground water source adequacy shall be determined by the amount of water produced by each well pumping within its calculated safe yield.
* * *
- c) Where only one well is provided the delivery shall:
 - 1) exceed the record maximum daily demand
 - 2) meet the requirements of 35 Ill. Adm. Code 653.109 or 653.110 if hydropneumatic storage is provided.

15. Section 602.115 of the Board's Public Water Supplies Regulations, 35 Ill. Adm.

Code 602.115, provides, in pertinent part:

- (a) The Agency may adopt criteria, published in the form of Technical Policy Statements, for the design, operation, and maintenance of public water supply facilities as necessary to insure safe, adequate, and clean water.

16. The Illinois EPA ("Agency") has adopted the 1982 Recommended Standards for Water Works, A Report of the Committee of the Great Lakes-Upper Mississippi River Board of State Sanitary Engineers ("Standards"), as the technical policy statement setting forth the standards for the design, operation, and maintenance of public water supply facilities to insure safe, adequate, and clean water.

17. Section 3.2.1.1 of the Standards provides:

The total developed groundwater source capacity shall equal or exceed the design maximum day demand and equal or exceed the design average day demand with the largest producing well out of service.

18. Section 3.2.1.2 of the Standards provides:

A minimum of two sources of groundwater shall be provided.

19. On October 21, 2003, Illinois EPA performed an engineering evaluation of the Park's PWS operations and observed multiple violations.

20. During the evaluation, Illinois EPA found that the Park's well had a maximum capacity of 16 gallons per minute and the Park had a hydropneumatic storage of 500 gallons.

21. The Park's maximum daily usage is approximately 4,000 gallons per day and the Park's maximum hourly usage is approximately 300 gallons per hour.

22. During the evaluation, Illinois EPA found that the Park's PWS capacity and rate of delivery was not greater than the maximum hourly rate of usage or the maximum daily usage.

23. By not having adequate capacity and rate of delivery, Respondent is in violation of Sections 601.101 and 653.109(d) & (e) of the Board's Public Water Supply regulations, 35 Ill. Adm. Code 601.101, 653.109(d) & (e).

24. By having a well that does not exceed the maximum daily demand, Respondent is in violation of Sections 601.101 and 654.202 Board's Public Water Supply Regulations, 35 Ill. Adm. Code 601.101 and 654.202 and Section 3.2.1.1 of the Standards.

25. By only having one well and therefore one groundwater source, Respondent is in violation of Section 3.2.1.2 of the Standards.

26. By violating the Board regulations, Respondent has violated Section 18 of the Act, 415 ILCS 5/18 (2002).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an Order against Respondent LEONARD FOSTER d/b/a RIVERCREST MOBILE HOME PARK:

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

B. Find that LEONARD FOSTER d/b/a RIVERCREST MOBILE HOME PARK has violated the Act and regulations as alleged herein;

C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2002), impose upon Respondent a monetary penalty of not more than the statutory maximum;

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2002), award the Complainant its costs in this matter, including reasonable attorney's fees and expert witness costs; and

F. Grant such other and further relief as the Board deems appropriate.

COUNT II

FAILURE TO PROVIDE ADEQUATE CHLORINATION

1-20. Complainant realleges and incorporates herein by reference paragraphs 1 through 20 of Count I as paragraphs 1 through 20 of this Count II.

21. Section 653.608 of the Board's Public Water Supply Regulations, 35 Ill. Adm. Code 653.608, provides in pertinent part:

- b) A chlorination exemption shall be revoked immediately without prior notice if a supply fails to meet any of the exemption requirements.
* * *
- c) One or more of the following conditions will result in revocation:
* * *
 - 2) addition of a new source subject to contamination, or finding that an existing source is subject to contamination based on raw water bacteriological analyses records;

22. Section 611.240 of the Board's Public Water Supply Regulations, 35 Ill. Adm. Code 611.240, provides in pertinent part:

- g) CWS suppliers using groundwater that is not under the direct influence of surface water must chlorinate the water before it enters the distribution system, unless the Agency has granted the supplier an exemption pursuant to Section 17(b) of the Act [415 ILCS 5/17(b)].
 - 1) All GWS supplies that are required to chlorinate pursuant to this Section must maintain residuals of free or combined chlorine at levels sufficient to provide adequate protection of human health and the ability of the distribution system to continue to deliver potable water that complies with the requirements of this Part.

23. Section 653.604(a) of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 653.604(a) (1996), provides, in pertinent part:

- (a) A minimum free chlorine residual of 0.2 mg/l or a minimum combined residual of 0.5 mg/l shall be maintained in all active parts of the distribution system at all times....

24. The Park's water supply was chlorine exempt since May 13, 1982 until the Illinois EPA engineering evaluation in October 2003. After the evaluation, Illinois EPA notified the Park that its chlorine exemption was revoked per Section 653.608 of the Board's Public Water Supply Regulations, 35 Ill. Adm. Code 653.608, because routine monitoring had shown detections of total coliform in the raw water in June 2002, July 2002, August 2002 and January 2003.

25. From October 2003 through January 2005, Rivercrest failed to chlorinate its water before pumping it into the distribution system and failed to maintain a minimum of free chlorine residual of 0.2 mg/l or a minimum combined residual of 0.5 mg/l in all active parts of the distribution system to provide adequate protection of human health.

26. Adequate chlorination of a public water supply is necessary to reduce or eliminate populations of disease-causing microorganisms when those microorganisms are present in the public water supply.

27. By failing to maintain the minimum free or combined chlorine residual level at all times, Respondent knowingly caused, threatened or allowed the distribution of water from a public water supply of such quality as to be injurious to human health.

28. By so knowingly causing, threatening or allowing the distribution of water from a public water supply of such quality as to be injurious to human health, Respondent has violated Section 18(a)(1) of the Act, 415 ILCS 5/18(a)(1) (2002).

29. By failing to chlorinate its water and maintain residuals of free or combined chlorine at sufficient levels, Respondent has violated Sections 606.101, 653.604(a), and 611.240(g) of the Board's Public Water Supply Regulations, 35 Ill. Adm. Code 601.101, 653.604(a), and 611.240(g).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an Order against Respondent LEONARD FOSTER d/b/a RIVERCREST MOBILE HOME PARK:

- A. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;
- B. Find that LEONARD FOSTER d/b/a RIVERCREST MOBILE HOME PARK has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2002), impose upon Respondent a monetary penalty of not more than the statutory maximum;
- E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2002), award the Complainant its costs in this matter, including reasonable attorney's fees and expert witness costs; and
- F. Grant such other and further relief as the Board deems appropriate.

COUNT III

PUBLIC WATER SUPPLY CONSTRUCTION STANDARDS VIOLATIONS

1-19. Complainant realleges and incorporates herein by reference paragraphs 1 through 19 of Count I as paragraphs 1 through 19 of this Count III.

20. Section 653.103(a) of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 653.103(a), provides, in pertinent part:

- (a) Construction shall conform to the Standards and the Current American Water Works Association (AWWA) Standard for Deep Wells, * * *

21. Section 3.2.5.8 of the Standards provides:

Permanent casing for all groundwater sources shall project at least 12 inches above the pumphouse floor or concrete apron surface and at least 18 inches above final ground surface.

22. Section 3.2.7.5 of the Standards provides:

Provisions shall be made for venting the well casing to atmosphere. The vent shall terminate in a downturned position, at or above the top of the casing or pitless unit in a minimum 1 ½ inch diameter opening covered with a 24 mesh, corrosion resistant screen. The pipe connecting the casing to the vent shall be of adequate size to provide rapid venting of the casing.

23. Illinois EPA found during the October 21, 2003 evaluation that the casing of the Park's well did not have a vent and terminated in a pit and extended approximately 3 inches above the pit floor.

24. By not having a casing vent, Respondent has violated Section 3.2.7.5 of the Standards.

25. By the casing being less than 18 inches above the final ground surface, Respondent have violated Section 3.2.5.8 of the Standards.

26. By violating Sections of the Standards, Respondent has violated Section 653.103(a) of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 653.103(a).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an Order against Respondent LEONARD FOSTER d/b/a RIVERCREST MOBILE HOME PARK:

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

- B. Find that LEONARD FOSTER d/b/a RIVERCREST MOBILE HOME PARK has violated the Act and regulations as alleged herein;

C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2002), impose upon Respondent a monetary penalty of not more than the statutory maximum;


E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2002), award the Complainant its costs in this matter, including reasonable attorney's fees and expert witness costs; and.

F. Grant such other and further relief as the Board deems appropriate.

Respectfully submitted,

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

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

BY: 
THOMAS DAVIS, Chief
Assistant Attorney General

Of Counsel
KRISTEN LAUGHRIDGE
Assistant Attorney General
500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: 6/30/05