

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
vs. )  
)  
WEIS BUILDERS, INC., )  
a Minnesota corporation, )  
)  
Respondent. )

PCB No. 06-44  
(Enforcement - PWS)

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SEP 20 2005  
STATE OF ILLINOIS  
Pollution Control Board

NOTICE OF FILING

TO: Leonard L. Burrige, General Counsel  
Weis Builders, Inc.  
7645 Lyndale Avenue South  
Minneapolis, MN 55423

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 North  
188 W. Randolph St., 20th Flr.  
Chicago, IL 60601  
(312) 814-3816

DATE: September 20, 2005



**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS, )  
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Complainant, )  
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v. )  
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WEIS BUILDERS, INC., )  
a Minnesota corporation, )  
)  
Respondent. )

PCB No. **44**  
(Enforcement - Public Water Supply)

**COMPLAINT**

NOW COMES THE Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and complains of Respondent, WEIS BUILDERS, INC., a Minnesota corporation as follows:

**COUNT I**

**CONSTRUCTION OF POTABLE WATER LINES  
WITHOUT A CONSTRUCTION PERMIT**

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 against WEIS BUILDERS, INC., a Minnesota corporation, on her own motion pursuant to Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2004).

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 (2004), and charged, *inter alia*, with the duty of enforcing the Act.

3. At all times relevant to this Complaint, Respondent, WEIS BUILDERS, INC. ("Weis") is a Minnesota corporation authorized to transact business in the State of Illinois and in

good standing. The mailing address for Weis Builders is 1701 Golf Road, Tower 3, Suite 1200, Rolling Meadows, Illinois 60008.

4. On August 31, 2003, Home Depot, applied for a construction permit for the installation of an 88 linear feet of 6-inch water main extension and 2,303 linear feet of 10-inch main to serve the new Home Depot store number 1989, located on 143<sup>rd</sup> Street and Bell Road, Homer Township, Will County, Illinois ("construction site" or "project").

5. On September 5, 2003, the Illinois EPA inspected the construction site and discovered that the potable water main had already been constructed without the issuance of the required construction permit from the Illinois EPA.

6. At all times relevant to this Complaint, Weis was the construction contractor who installed the potable water lines at the new Home Depot store without first obtaining the required construction permit.

7. On October 1, 2003, the Illinois EPA issued, after the fact, an "As-Built" Plans Construction Permit No. 0431-FY2004 to Home Depot.

8. Section 18(a)(3) of the Act, 415 ILCS 5/18(a)(3)(2004), titled, Prohibitions; plugging requirements, provides as follows:

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.

9. Section 602.101(a) of the Board Public Water Supply Regulations, 35 Ill. Adm.

Code 602.101, titled, Construction Permit, provides as follows:

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 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. Section 3.315 of the Act, 415 ILCS 5/3.315 (2004), 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.

11. Weis, a corporation, is a person as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2004).

12. Section 3.365 of the Act, 415 ILCS 5/3.365 (2004), 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”.

13. Section 3.145 of the Act, 415 5/3.145 (2004), defines community water supply as follows:

**“COMMUNITY WATER SUPPLY” means a public water supply which serves or is intended to serve at least 15 service connections used by residents or regularly serves at least 25 residents.**

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 the mains serve more than 15 service connections which regularly serve more than 25 persons at least 60 days a year as defined in Sections 3.365 and 3.145 of the Act, 415 ILCS 5/3.365 and 3.145 (2004).

15. As a person causing or allowing the construction of a public water supply, Respondent Weis is required to first obtain a construction permit from the Illinois EPA prior to proceeding with the construction of the water main at the construction site.

16. Respondent Weis constructed and installed 88 feet of 6-inch water main and 2,303 linear feet of 10-inch main at the construction site without first obtaining a construction permit from the Illinois EPA.

17. By constructing and installing a water main at the construction site without first obtaining a construction permit from the Illinois EPA, Respondent violated Section 18(a)(3) of the Act, 415 ILCS 5/18(a)(3)(2004), and 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 Weis 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 and 35 Ill. Adm. Code 602.101(a);

3. Ordering Respondent to cease and desist from further violations of Section 18(a)(3) of the Act and 35 Ill. Adm. Code 602.101(a) ;
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 pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2004), 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 North  
Assistant Attorney General

Of Counsel:

ZEMEHERET BEREKET-AB  
Assistant Attorney General  
Environmental Bureau North  
188 West Randolph Street, 20<sup>th</sup> Floor  
Chicago, Illinois 60601  
(312) 814-3816  
(312) 814-2347 - fax





**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:

Leonard L. Burrige  
General Counsel  
Weis Builders, Inc.  
7645 Lyndale Avenue South  
Minneapolis, MN 55423



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ZEMEHERET BEREKET-AB  
Assistant Attorney General  
Environmental Bureau  
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