

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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FLAGG CREEK WATER
RECLAMATION DISTRICT,

APR 25 2006

Complainant,

STATE OF ILLINOIS
Pollution Control Board

vs.

PCB 06-141

VILLAGE OF HINSDALE, METROPOLITAN
WATER RECLAMATION DISTRICT OF
GREATER CHICAGO, ILLINOIS
DEPARTMENT OF TRANSPORTATION,
DUPAGE COUNTY,

Respondents.

NOTICE OF FILING

TO: Persons on the attached service list

PLEASE TAKE NOTICE that I have filed today with the Office of the Clerk of the Illinois Pollution Control Board, 100 W. Randolph Street, Suite 11-500, Chicago, IL, an ANSWER on behalf of Respondent, ILLINOIS DEPARTMENT OF TRANSPORTATION, a copy of which is herewith served upon you.

Respectfully Submitted,



Richard A. Christopher

LISA MADIGAN
ATTORNEY GENERAL
By: Richard A. Christopher
SPECIAL ASSISTANT ATTORNEY GENERAL
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Dated: April 24, 2006

SERVICE LIST

Flagg Creek Water Reclamation District vs. Village of Hinsdale, et al.

For the Flagg Creek Water Reclamation

District:

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For the Village of Hinsdale:

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For the Metropolitan Water Reclamation District of Greater Chicago:

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Co-Counsel for the Village of Hinsdale:

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For the DuPage County, Division of Transportation:

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For the Illinois Pollution Control Board:

Bradley Halloran
Hearing Officer
Illinois Pollution Control Board
100 W. Randolph, Suite 11-500
Chicago, IL 60601

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

APR 25 2006

FLAGG CREEK WATER
RECLAMATION DISTRICT,

Complainant,

vs.

VILLAGE OF HINSDALE, METROPOLITAN)
WATER RECLAMATION DISTRICT OF)
GREATER CHICAGO, ILLINOIS)
DEPARTMENT OF TRANSPORTATION,)
DUPAGE COUNTY,)

Respondents.)

STATE OF ILLINOIS
Pollution Control Board

PCB 06-141

ANSWER AND AFFIRMATIVE DEFENSES OF RESPONDENT ILLINOIS
DEPARTMENT OF TRANSPORTATION

NOW COMES Respondent, Illinois Department of Transportation (the Department) by its attorney, Lisa Madigan, Attorney General of Illinois, appearing through Richard A. Christopher, Special Assistant Attorney General, and answers the Complaint of Flagg Creek Water Reclamation District and asserts affirmative defenses to that Complaint as follows:

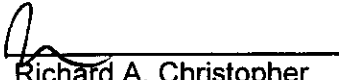
1. The Department admits the allegations of Paragraph 1.
2. The Department lacks knowledge sufficient to form a belief as to the matters asserted in Paragraph 2.
3. The Department admits the first sentence of Paragraph 3 and lacks knowledge sufficient to form a belief as to the remaining matters asserted in Paragraph 3.
4. The Department admits it is a State agency with planning jurisdiction over the modes of transportation listed in Paragraph 4, admits it has construction and maintenance jurisdiction over a system of highways and bridges, denies it has construction and maintenance jurisdiction over airports, public transit, rail freight and rail passenger systems and admits it operates roadways within the area described in Paragraph 2.
5. The Department admits the allegations in Paragraph 5 and lacks knowledge sufficient to form a belief as to the estimates of population of the County and the extent of the DuPage County Division of Transportation's system of roads and trails.
6. The Department admits the allegations in the first and fourth sentences of Paragraph 6 and lacks knowledge sufficient to form a belief as to the second and third sentences of Paragraph 6.

7. The Department lacks knowledge sufficient to form a belief as to the matters asserted in Paragraph 7.
8. The Department lacks knowledge sufficient to form a belief as to the matters asserted in Paragraph 8.
- 9-21. The Department lacks knowledge sufficient to form a belief as to the matters asserted in Paragraphs 9 to 21.
- 22-49. The Department lacks knowledge sufficient to form a belief as to the matters asserted in Paragraphs 22 to 49.
- 50-61. The Department lacks knowledge sufficient to form a belief as to the matters asserted in Paragraphs 50 to 61.
62. The Department admits the allegations in Paragraph 62.
- 63-70. The Department lacks knowledge sufficient to form a belief as to the matters asserted in Paragraphs 63 to 70.
71. The Department admits the allegations asserted in Paragraph 71.
72. The Department admits that 55th Street was originally constructed as a two lane roadway but denies that it added lanes and curbs east of County Line Road.
73. The Department denies that it expanded 55th Street and added curbs and lacks knowledge sufficient to form a belief as to the remaining matters asserted in Paragraph 73.
- 74-80. The Department lacks knowledge sufficient to form a belief as to the matters asserted in Paragraphs 74 to 80.
81. The Department admits the allegations of Paragraph 81.
- 82-91. The Department lacks knowledge sufficient to form a belief as to the matters asserted in Paragraphs 82 to 91.

AFFIRMATIVE DEFENSES

1. As an agency of State government, the Department is not subject to the ordinances of the Flagg Creek Water Reclamation District.
2. The right to drain surface water from the Department's highways is a property right of the State of Illinois which may not be adjudicated by any court other than the Illinois Court of Claims.

ILLINOIS DEPARTMENT OF TRANSPORTATION


Richard A. Christopher

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