

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB NO.
)	(Enforcement-Water)
)	
SUD FAMILY LIMITED PARTNERSHIP,)	
a Wisconsin limited partnership,)	
)	
Respondent.)	

NOTICE OF ELECTRONIC FILING

To: See Attached Service List

PLEASE TAKE NOTICE that on December 9, 2010, I electronically filed with the Clerk of the Pollution Control Board of the State of Illinois, c/o John T. Therriault, Assistant Clerk, James R. Thompson Center, 100 W. Randolph St., Ste. 11-500, Chicago, IL 60601 a COMPLAINT and ENTRY OF APPEARANCE, copies of which are 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 (2008), 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: 

RAYMOND J. CALLERY
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: December 9, 2010

CERTIFICATE OF SERVICE

I hereby certify that I did on December 9, 2010, cause to be served by Certified Mail, Return Receipt Requested, with postage thereon fully prepaid, by depositing in a United States Post Office Box in Springfield, Illinois, a true and correct copy of the following instruments entitled NOTICE OF ELECTRONIC FILING, COMPLAINT and ENTRY OF APPEARANCE upon the persons listed on the Service List.

A handwritten signature in black ink, appearing to read "Raymond J. Callery", written over a horizontal line.

RAYMOND J. CALLERY
Assistant Attorney General

This filing is submitted on recycled paper.

SERVICE LIST

Sud Family Limited Partnership
c/o Gian C. Sud, R.A.
1430 East Fort Jesse Road
Normal, IL 61761

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
ex rel. LISA MADIGAN, Attorney General)	
of the State of Illinois,)	
)	
Complainant,)	
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v.)	PCB No.
)	(Water - Enforcement)
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SUD FAMILY LIMITED PARTNERSHIP,)	
a Wisconsin limited partnership,)	
)	
Respondent.)	

COMPLAINT

The PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* LISA MADIGAN, Attorney General of the State of Illinois, complains of the Respondent, SUD FAMILY LIMITED PARTNERSHIP, a Wisconsin limited partnership, as follows:

COUNT I
WATER POLLUTION

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 (2008).

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 (2008), and which is

charged, *inter alia*, with the duty of enforcing the Act.

3. This Complaint is brought pursuant to Section 31 of the Act, 415 ILCS 5/31 (2008), after providing the Respondent with notice and the opportunity for a meeting with the Illinois EPA.

4. Respondent is a Wisconsin limited partnership in good standing with the Illinois Secretary of State. The registered agent for the Respondent is Gian C. Sud, 1430 East Fort Jesse Road, Normal, Illinois 61761.

5. Respondent is the owner/developer of SUD Business Park, a development consisting of an automobile dealership property and an additional subdivision area ("site"). The site is located on North Allen Road, at Illinois Route 6, in Peoria, Peoria County, Illinois.

6. Storm water from the site discharges into an unnamed tributary of Kickapoo Creek and also into the municipal storm water inlets at the site. Kickapoo Creek is a tributary to the Illinois River.

7. Pursuant to the National Pollutant Discharge Elimination System ("NPDES") the Illinois EPA issued permit number ILR10E923 ("Permit") to the Respondent for coverage of the discharge of storm water at the site under the general NPDES permit for Storm Water Discharges From Construction Site Activities.

8. The Permit requires Respondent to develop a storm water pollution prevention plan ("SWPPP") and to implement its provisions as a condition of the Permit.

9. The Permit further requires Respondent to complete weekly and rainfall

inspections and to submit Incidence of Non-compliance ("ION") reports to the Illinois EPA.

10. On November 30, 2007, the Illinois EPA inspected the site. Barren areas, an unprotected storm water inlet, rill erosion on slopes, and insufficient silt fencing were observed. Sediment was discharging into a lake and a ditch. Soil dumping and stockpiling activities with insufficient erosion controls had taken place at the site.

11. On January 9, 2008, the Illinois EPA re-inspected the site. Sediment was discharging into storm water inlets and by at least four ditches into the unnamed tributary of Kickapoo Creek. No additional erosion controls had been provided since the November 2007 inspection and the silt fencing had not been repaired or maintained.

12. On February 14, 2008, the Illinois EPA re-inspected the site. Although some fencing had been added the silt fencing remained inadequate, additional seeding and fencing were required, and erosion and sediment discharges continued along the site entrance road.

13. On June 17, 2009, the Illinois EPA re-inspected the site. Erosion and sediment discharges continued, silt fencing was missing and not maintained, rill erosion was present, and sediment deposits were present in the receiving stream along the south side of the site and downstream of the lake outlet. Soil dumping was still occurring.

14. On October 6, 2009, the Illinois EPA re-inspected the site. Some silt fencing repairs and additions had been made but rill erosion was present at the roadway and sediment was still discharging from the south side of the site. The dirt

stockpile area had been leveled. Rainfall inspections were not being performed as required.

15. On October 23, 2009, the Peoria County Soil and Water Conservation District inspected the site. The violations noted by the Illinois EPA during its October 6, 2009 inspection had not been remedied.

16. On July 1 and July 2, 2010, the Illinois EPA re-inspected the site. Erosion controls were not receiving proper maintenance and action had still not been taken regarding the violations noted on October 6, 2009.

17. On September 3, 2010, the Illinois EPA re-inspected the site. There had been no change in erosion control measures or repairs to the areas of the site located south of the cul-de-sac at the end of the access road.

18. On November 23, 2010, the Illinois EPA and the Peoria County Soil and Water Conservation District re-inspected the site. Rill erosion had been repaired near the cul-de-sac and on the portion of the slope leading from this area of the site to the lake. Silt fence had been installed across the repaired slope area, but rill erosion remained and the newly repaired areas were barren. The site still lacked a comprehensive SWPPP.

19. Section 3.165 of the Act, 415 ILCS 5/3.165 (2008), provides the following definition:

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

20. Section 3.545 of the Act, 415 ILCS 5/3.545 (2008), provides the following

definition:

"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.

21. Kickapoo Creek and its unnamed tributary meet the definition of "waters" of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2008), 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 this State.

22. The storm water system at the site constitutes a "point source" as that term is defined in the federal Clean Water Act ("CWA"):

The term "point source" means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container; rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.

33 U.S.C.A. 1362(14).

23. Section 12 of the Act, 415 ILCS 5/12 (2008), provides, in pertinent part, as follows:

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.

* * *

- (f) Cause, threaten or allow the discharge of any contaminant into the waters of the State, as defined herein, including but not limited to, waters 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 or of any order adopted by the Board with respect to the NPDES program.

* * *

24. Respondent caused, allowed or threatened to cause water pollution by failing to provide adequate soil erosion and sediment control at the site, in violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2008).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent, SUD FAMILY LIMITED PARTNERSHIP:

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

B. Finding the Respondent has violated the Act and the 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) (2008) impose a civil penalty of not more than the statutory maximum; and

E. Granting such other relief as the Board may deem appropriate.

COUNT II
NPDES PERMIT VIOLATIONS

1-23. Complainant realleges and incorporates herein by reference paragraphs 1 through 23 of Count I as paragraphs 1 through 23 of this Count II.

24. Respondent failed to provide adequate soil erosion and sediment control, failed to have an adequate SWPPP, failed to complete weekly and rainfall inspections at the required frequencies, and failed to submit ION reports, all in violation of Section 12(f) of the Act, 415 ILCS 5/12(f) (2008) and NPDES permit ILR10E923.

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent, SUD FAMILY LIMITED PARTNERSHIP:

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

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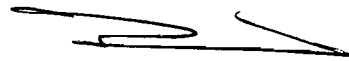
E. Granting such other relief as the Board may deem appropriate.

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
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Dated: December 9, 2010