

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
vs.)	PCB No. 2011-
)	(Enforcement - Water)
ALDEN MANAGEMENT SERVICES, INC.,)	
an Illinois corporation and ALDEN LONG)	
GROVE REHABILITATION AND HEALTH)	
CARE CENTER, INC., an Illinois corporation,)	
)	
Respondents.)	

NOTICE OF FILING

TO: Alden Management Services, Inc.
Alden Long Grove Rehabilitation and Health Care Center, Inc.
c/o Kenneth J. Fisch, Registered Agent
4200 Peterson Ave #140
Chicago, IL 60646

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:



GEORGE THEOPHILOS

Assistant Attorney General

Environmental Bureau

69 W. Washington St., 18th Flr.

Chicago, IL 60602

(312) 814-6986

DATE: July 19, 2010

THIS FILING IS SUBMITTED ON RECYCLED PAPER

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
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Complainant,)	
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an Illinois corporation and ALDEN LONG ,)	
GROVE REHABILITATION AND HEALTH)	
CARE CENTER, INC., an Illinois corporation,)	
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COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of the Respondents, ALDEN MANAGEMENT SERVICES, INC., and ALDEN LONG GROVE REHABILITATION AND HEALTH CARE CENTER, INC. as follows:

COUNT I
WATER POLLUTION

1. This Count is brought on behalf of 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 ("Illinois EPA"), pursuant to 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 under Section 4 of the Act, 415 ILCS 5/4 (2008), and is charged, *inter alia*, with the duty of enforcing the Act.

3. On April 2, 2009, Illinois EPA sent a violation notice letter to Respondent, Alden Long Grove Rehabilitation Center, Inc. citing substandard operation of the Respondents' waste water treatment plant, overflows of sanitary sewers, offensive discharges, and water quality

violations. On August 31 2009, the Illinois EPA rejected the proposed compliance commitment submitted by Respondent, Alden Long Grove Rehabilitation Center, Inc. On October 15, 2009, Illinois EPA sent a notice of intent to pursue legal action (“NIPLA”) letter to Respondent, Alden Management Services, Inc., and a meeting pursuant to the NIPLA letter was held on November 17, 2009.

4. The Respondent, Alden Management Services, Inc., is and was at all times relevant to this Complaint an Illinois corporation, currently registered and in good standing with the Illinois Secretary of State's Office with an office at 420 West Peterson Avenue, Chicago, Illinois 60646. Alden Management Services, Inc. operates several rehabilitation and nursing facilities in Illinois and Wisconsin, including Alden Long Grove Rehabilitation and Health Care Center, Inc. (a/k/a Alden Long Grove Rehabilitation Center).

5. The Respondent, Alden Long Grove Rehabilitation Center, Inc. is located on Old Hicks Road, east of Illinois Route 53 and just west of Illinois Route 83, Long Grove, Lake County, Illinois.

6. The Alden Long Grove Rehabilitation Center includes a waste water treatment plant (“WWTP”). Discharges from the WWTP are regulated under the terms and conditions of National Pollutant Elimination System (“NPDES”) Permit IL0051934 issued by the Illinois EPA to the Alden Long Grove Rehabilitation Center on January 9, 2009. (Exhibit A, hereto) Receiving waters for the WWTP’s effluent discharge is an unnamed tributary of Buffalo Creek, which is part of the Des Plaines River watershed.

7. The WWTP consists of an on-site comminutor with a bypass bar screen for preliminary treatment. The WWTP’s main treatment system is located approximately 600 feet off-site and consists of a two-cell lagoon. The first cell is 0.5 acres attached to a 1 acre

secondary cell. Both lagoons were designed to have an operating depth of 5 feet, giving the system a total capacity of 3.1 million gallons. The secondary cell also includes two 1,444 square foot intermittent sand filters, a dual siphoning dosing chamber and a four-foot diameter chlorine contact tank for tertiary treatment.

8. The WWTP's main treatment system is surrounded by a low density subdivision comprised of homes that are on individual septic systems and private wells.

9. The WWTP's main treatment system borders protected wetland areas which are part of conservation easements held by the Village of Long Grove Conservancy District. The wetlands on the eastern perimeter are classified as permanent open water wetlands with floating aquatic habitat. The wetlands to the south of the WWTP's main treatment system, which includes the unnamed tributary to Buffalo Creek and the discharge point permitted under NPDES Permit # IL0051934, are classified as seasonably flooded. The northern portion of the WWTP's main treatment system drains into a wooded forestry wetland. All of the wetlands surrounding the WWTP's main treatment system are in the Buffalo Creek Sub Basin.

10. Due to a past history of sanitary sewer overflows, overland conveyances to the main lagoon were installed at the first manhole entering the system and at the manhole that diverts the influent line to the lagoon.

11. On February 27, 2009, a representative from the Illinois EPA's Division of Water Pollution Control inspected the WWTP's main treatment system and adjacent areas. During the inspection, Illinois EPA's representative took photographs of the first manhole in the system, which has a diversion trough to the first cell lagoon. (Exhibit B) The presence of sanitary sewer debris on the ground adjacent to the manhole observed by Illinois EPA's representative, and visible in the photographs taken during the inspection, demonstrate that at least one sanitary

sewer overflow had occurred at the first manhole location. In addition, at this location, some sewage influent was observed entering the lagoon by way of an overland diversion trough, Exhibit B, which is also indicative of sewage overflow.

12. During the February 27, 2009 inspection, additional observations made, and photographs taken, by Illinois EPA's representative showed evidence of significant sanitary sewer overflows at two other locations. First, a visible trail of sewage debris was observed leading into the open water wetlands to the east. (Exhibit C) Second, at the north end diversion line to lagoon number 2, the manhole was totally open and the pattern of sewage debris at this location indicated a sewage discharge leading offsite to the north. (Exhibit D)

13. In addition to the evidence of sanitary sewage overflows observed during the February 27, 2009 inspection, Illinois EPA's representative noted the following WWTP operation and maintenance deficiencies:

- a. The waste water in the first cell lagoon at the influent point was septic and heavy odors were apparent.
- b. The mechanical aerators were not in operation in either of the two lagoons.
- c. The water levels in both lagoons were very high, suggesting accumulative sludge layers in the bottom of the lagoons, and impairment of the lagoons to function with a 5-foot depth as originally designed.
- d. Rodent activity and heavy vegetation were observed, including trees which had been allowed to grow along the banks of the lagoon.
- e. The rock filter in the second lagoon had vegetative growth on it and a wheel barrow also had been dumped in that area of the lagoon.
- f. There were chemical containers spread throughout the end works of the WWTP and chemical containers were lying on the ground beside the chlorine contact tank. The chemical container labels contained warnings about not dumping chemicals into the watershed.
- g. The effluent from the WWTP was grey and turbid.

14. On March 24, 2009, a follow-up inspection was conducted by a representative from the Illinois EPA's Division of Water Pollution Control. The area had been experiencing some rainfall and the diversion manhole located in the north end adjacent to the second lagoon was heavily surcharging raw sewage into the ditch and the wetlands to the north. (Exhibit E) Some of the sewage was flowing north onto private property to the north and some of the sewage was also flowing to the west and south into the same unnamed tributary to Buffalo Creek referenced in the NPDES permit # IL0051934.

15. During the March 24, 2009 follow-up inspection, Illinois EPA's representative also observed that the influent line manhole was also surcharging and containers for disinfection and dechlorination chemicals were placed beside the chlorine contact tank. Other chemical containers were also stored outside near the storage shed, and, at a downstream effluent manhole, chemicals were observed dumped on the ground. (Exhibit F)

16. The unnamed tributary to Buffalo Creek and the wetlands adjacent to the WWTP are "waters" of the State as that term is defined under Section 3.56 of the Act, 415 ILCS 5/3.56 (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.

17. Section 3.55 of the Act, 415 ILCS 5/3.55 (2008), defines "water pollution" 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.

18. Section 12(a) of the Act, 415 ILCS 5/12(a) (2008), 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.

19. Section 3.315 of the Act, 415 ILCS 5/3.315 (2008), provides the following definition:

"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.

20. Respondents are both corporations and are therefore persons as that term is defined by Section 3.315 of the Act, 415 ILCS 5/3.315 (2008).

21. 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.

22. The sanitary sewer overflows from the WWTP are discharges containing contaminants as that term is defined at Section 3.165 of the Act.

23. By causing or allowing discharges consisting of sanitary sewer overflows from the WWTP into the wetlands adjacent to the WWTP and into unnamed tributary to Buffalo Creek, Respondents have caused, threatened or allowed the discharge of contaminants into the

environment so as to cause or tend to cause water pollution in violation of Section 12(a) of the Act, 415 ILCS 5/12(a)(2008).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, Alden Management Services, Inc. and Alden Long Grove Rehabilitation Center, Inc., on this Count I:

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

2. Finding that Respondents have violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2008);

3. Ordering the Respondents to cease and desist from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2008);

4. Assessing against Respondents a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of Section 12(a) of the Act, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Ordering Respondents to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2008), including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board deems appropriate and just.

COUNT II
VIOLATION OF THE GENERAL USE WATER QUALITY STANDARDS

1-22. Complainant realleges and incorporates by reference herein paragraphs 1 through 22 of Count I as paragraphs 1 through 22 of this Count II.

23. Respondents' discharges consisting of sanitary sewer overflows from the WWTP into the wetlands adjacent to the WWTP and into the unnamed tributary to Buffalo Creek, are

subject to the Act and the rules and regulations promulgated by the Illinois Pollution Control Board ("Board") and the Illinois EPA. The Board's regulations for water pollution are found in Title 35, Subtitle C, Chapter 1 of the Illinois Administrative Code ("Board Water Pollution Regulations").

24. Part 304, Subpart A, of the Board Water Pollution Regulations, 35 Ill. Adm. Code Part 304, Subpart A, establishes general effluent standards for waters of the State.

25. Section 304.105 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 304.105, provides, in pertinent part, as follows:

In addition to the other requirements of this Part, no effluent shall, alone or in combination with other sources, cause a violation of any applicable water quality standard. . . .

26. Section 304.106 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 304.106, provides, in pertinent part, as follows:

Offensive Discharges

In addition to the other requirements of this Part, no effluent shall contain settleable solids, floating debris, visible oil, grease, scum or sludge solids. Color, odor and turbidity must be reduced to below obvious levels.

27. Part 302, Subpart B, of the Board Water Pollution Regulations, 35 Ill. Adm. Code Part 302, Subpart B, establishes general use water quality standards for non-specified waters of the State of Illinois.

28. Section 302.203 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 302.203, provides, in pertinent part, as follows:

Offensive Conditions

Waters of the State shall be free from sludge or bottom deposits, floating debris, visible oil, odor, plant or algal growth, color or turbidity of other than natural origin

29. Section 301.275 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 301.275, defines "effluent," in pertinent part, as follows:

"Effluent" means any wastewater discharged directly or indirectly, to the waters of the State or to any storm sewer. . .

30. Section 301.425 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 301.425, defines "wastewater" as follows:

"Wastewater" means sewage, industrial waste or other waste, or any combination of these, whether treated or untreated, plus any admixed land runoff.

31. Respondents' discharges of sanitary sewer overflows from the WWTP constitute "wastewater" as that term is defined in Section 301.425 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 301.425.

32. Respondents' discharges of sanitary sewer overflows from the WWTP into the wetlands adjacent to the WWTP and into the unnamed tributary to Buffalo Creek was "effluent" as that term is defined in Section 301.275 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 301.275.

33. On at least February 27, 2009 and again on March 23, 2009, and on other dates better known to Respondents, Respondents caused or allowed the discharge wastewater in the form of sanitary sewer overflows from the WWTP into the wetlands adjacent to the WWTP and into the unnamed tributary to Buffalo Creek, and caused waters, comprised of the wetlands adjacent to the WWTP and the unnamed tributary to Buffalo Creek, to contain sludge, sludge solids, and obvious and visible color and turbidity that was not of natural origin.

34. Respondents, by their actions alleged herein, caused or allowed offensive discharges and offensive conditions in waters, comprised of the wetlands adjacent to the WWTP

and the unnamed tributary to Buffalo Creek, in violation of Sections 302.203, and 304.106 of the Board Water Pollution regulations, 35 Ill. Adm. Code 302.203, and 304.106.

35. By discharging an effluent that caused violations of water quality standards Respondents violated Section 304.105 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 304.105.

36. By causing or allowing the discharge of contaminants into the waters of the wetlands and in the unnamed tributary to Buffalo Creek in violation of Board regulations, Respondents violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2008).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, Alden Management Services, Inc. and Alden Long Grove Rehabilitation Center, Inc., on this Count II:

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

2. Finding that Respondents have violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2008), and Sections 302.203, 304.105, and 304.106 the Board Water Pollution regulations, 35 Ill. Adm. Code 302.203, 304.105, and 304.106;

3. Ordering the Respondents to cease and desist from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2008), and Sections 302.203, 304.105, and 304.106 the Board Water Pollution regulations, 35 Ill. Adm. Code 302.203, 304.105, and 304.106;

4. Assessing against Respondents a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of Section 12(a) of the Act and Sections 302.203, 304.105, and 304.106 of the Board Water Pollution regulations, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Ordering Respondents to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2004), including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board deems appropriate and just.

COUNT III
WATER POLLUTION HAZARD

1-21. Complainant realleges and incorporates by reference herein paragraphs 1 through 17 of Count I, and paragraphs 19 through 22 of Count I as paragraphs 1 through 21 of this Count II.

22. Section 12(d) of the Act, 415 ILCS 5/12(d) (2008), provides as follows:

No person shall:

- d. Deposit any contaminants upon the land in such place and manner so as to create a water pollution hazard.

23. Since at least February 27, 2009, or on earlier dates better known to Respondents, Respondents caused contaminants contained in sanitary sewer overflows from the WWTP to be deposited on the land in areas immediately adjacent to surface waters of the State, including the wetlands adjacent to the WWTP and the unnamed tributary to Buffalo Creek.

24. By causing contaminants contained in sanitary sewer overflows from the WWTP to be deposited on the land in areas immediately adjacent to surface waters of the State, including the wetlands adjacent to the WWTP and the unnamed tributary to Buffalo Creek, Respondents deposited contaminants upon the land in such place and manner so as to create a water pollution hazard in violation of Section 12(d) of the Act, 415 ILCS 5/12(d) (2008).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, Alden Management Services, Inc. and Alden Long Grove Rehabilitation Center, Inc., on this Count III:

1. Authorizing a hearing in this matter at which time the Respondents will be required to answer the allegations herein;
2. Finding that Respondents have violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2008);
3. Ordering the Respondents to cease and desist from any further violations of Section 12(d) of the Act, 415 ILCS 5/12(d) (2008);
4. Assessing against Respondents a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of Section 12(d) of the Act, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
5. Ordering Respondents to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2008), including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and
6. Granting such other relief as the Board deems appropriate and just.

COUNT IV
SANITARY SEWER OVERFLOWS

1-22. Complainant realleges and incorporates by reference herein paragraphs 1 through 22 of Count I as paragraphs 1 through 22 of this Count IV.

23. Section 306.304 of the Illinois Pollution Control Board ("Board") Water Pollution Regulations, 35 Ill. Adm. Code 306.304, provides as follows:

Overflows

Overflows from sanitary sewers are expressly prohibited.

24. By causing or allowing sanitary sewer overflows from the WWTP into the wetlands adjacent to the WWTP and into the unnamed tributary to Buffalo Creek, Respondents have violated Section 306.304 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 306.304.

25. By causing or allowing overflows from the WWTP's sanitary sewers in violation of Board regulations, Respondents violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2008).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, Alden Management Services, Inc. and Alden Long Grove Rehabilitation Center, Inc., on this Count IV:

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

2. Finding that Respondents have violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2008), and Section 306.304 of the Board Water Pollution regulations, 35 Ill. Adm. Code 306.304;

3. Ordering the Respondents to cease and desist from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2008), and Section 306.304 of the Board Water Pollution regulations, 35 Ill. Adm. Code 306.304;

4. Assessing against Respondents a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2008), and 306.304 of the Board Water Pollution regulations, 35 Ill. Adm. Code 306.304, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Ordering Respondents to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2008), including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board deems appropriate and just.

COUNT V
SYSTEMS RELIABILITY VIOLATIONS

1-22. Complainant realleges and incorporates by reference herein paragraphs 1 through 22 of Count I as paragraphs 1 through 22 of this Count V.

23. Section 306.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 306.102(a), provides as follows:

Systems Reliability

a) Malfunctions: All treatment works and associated facilities shall be so constructed and operated as to minimize violations of applicable standards during such contingencies as flooding, adverse weather, power failure, equipment failure, or maintenance, through such measures as multiple units, holding tanks, duplicate power sources, or such other measures as may be appropriate.

24. By failing to maintain and operate the WWTP in a manner so as to minimize the violations of applicable standards, Respondents violated Section 306.102 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 306.102, and thereby also violated Sections 12(a) of the Act, 415 ILCS 5/12(a).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, Alden Management Services, Inc. and Alden Long Grove Rehabilitation Center, Inc., on this Count V:

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

2. Finding that Respondents have violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2008), and Section 306.102(a) of the Board Water Pollution regulations, 35 Ill. Adm. Code 306.102(a);

3. Ordering the Respondents to cease and desist from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2008), and Section 306.102(a) of the Board Water Pollution regulations, 35 Ill. Adm. Code 306.102(a);

4. Assessing against Respondents a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2008), and 306.102(a) of the Board Water Pollution regulations, 35 Ill. Adm. Code 306.102(a), with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Ordering Respondents to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2008), including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board deems appropriate and just.

COUNT VI
FAILURE TO HAVE A CERTIFIED OPERATOR

1-22. Respondent realleges and incorporates by reference herein paragraphs 1 through 22 of Count I as paragraphs 1 through 22 of this Count VI.

23. Section 312.101 of the Illinois Pollution Control Board ("Board") Water Pollution Regulations, 35 Ill. Adm. Code 312.101, provides as follows:

Prohibition

No person shall cause or allow the use or operation of any treatment works for which a permit is required by Part 309 unless the operation of such treatment works is under the direct and active field supervision of a person who has been certified by the Agency as being competent to operate the particular type or size of

treatment works being used or operated.

24. Respondents allowed the WWTP to be operated without a properly certified operator. By failing to have a certified operator, Respondents violated Section 312.101 of the Board Water Pollution Regulations and thereby also violated Sections 12(a) of the Act, 415 ILCS 5/12(a) (2008).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, Alden Management Services, Inc. and Alden Long Grove Rehabilitation Center, Inc., on this Count VI:

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

2. Finding that Respondents have violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2008), and Section 312.101 of the Board Water Pollution regulations, 35 Ill. Adm. Code 312.101;

3. Ordering the Respondents to cease and desist from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2008), and Section 312.101 of the Board Water Pollution regulations, 35 Ill. Adm. Code 312.101;

4. Assessing against Respondents a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2008), and 312.101 of the Board Water Pollution regulations, 35 Ill. Adm. Code 312.101, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Ordering Respondents to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2008), including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board deems appropriate and just.

COUNT VII
DISCHARGING IN VIOLATION OF NPDES PERMIT CONDITIONS

1-30. Complainant realleges and incorporates by reference herein paragraphs 1 through 17 of Count I, paragraphs 19 through 22 of Count I, paragraphs 27 through 34 of Count II, and paragraph 25 of Count IV as paragraphs 1 through 30 of this Count VII.

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

No person shall:

* * *

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. . . .

32. SPECIAL CONDITION 2 of NPDES Permit # IL0051934 provides:

The use or operation of this facility shall be by or under the supervisions of a Certified Class 4 operator.

33. SPECIAL CONDITION 5 of NPDES Permit # IL0051934 provides:

The effluent, alone or in combination with other sources, shall not cause a violation of any applicable water quality standard outlined in 35 Ill. Adm. Code 302.

34. By failing to have a certified operator, Respondents violated SPECIAL CONDITION 2 of NPDES Permit # IL0051934 and thereby also violated Sections 12(f) of the Act, 415 ILCS 5/12(f) (2008).

35. By causing or allowing offensive discharges and offensive conditions in waters, comprised of the wetlands adjacent to the WWTP and the unnamed tributary to Buffalo Creek, in violation of Sections 302.203 of the Board Water Pollution regulations, 35 Ill. Adm. Code 302.203, Respondents violated SPECIAL CONDITION 5 of NPDES Permit # IL0051934 and thereby also violated Sections 12(f) of the Act, 415 ILCS 5/12(f) (2008).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, Alden Management Services, Inc. and Alden Long Grove Rehabilitation Center, Inc., on this Count VIII:

1. Authorizing a hearing in this matter at which time the Respondents will be required to answer the allegations herein;
2. Finding that Respondents have violated SPECIAL CONDITIONS 2 and 5 of NPDES Permit # IL0051934, and thereby Section 12(f) of the Act, 415 ILCS 5/12(f) (2008);
3. Ordering the Respondents to cease and desist from any further violations of SPECIAL CONDITIONS 2 and 5 of NPDES Permit # IL0051934, and thereby Section 12(f) of the Act, 415 ILCS 5/12(f) (2008);
4. Assessing against Respondents, pursuant to Section 42(b)(1) of the Act, a civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation of Section 12(f) of the Act, 415 ILCS 5/12(f) (2008);
5. Ordering Respondent to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2008), including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and
6. Granting such other relief as the Board deems appropriate and just.

COUNT VIII

DISCHARGING TO WATERS OF THE STATE WITHOUT AN NPDES PERMIT

1-22. Complainant realleges and incorporates by reference herein paragraphs 1 through 17 of Count I, paragraphs 19 through 22 of Count I, and paragraph 31 of Count VII as paragraphs 1 through 221 of this Count VIII.

23. Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a), provides as follows:

NPDES Permit Required

a) Except as in compliance with the provisions of the Act, Board regulations, and the CWA, and the provisions and conditions of the NPDES permit issued to the discharger, the discharge of any contaminant or pollutant by any person into the waters of the State from a point source or into a well shall be unlawful.

24. Section 301.240 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 301.240, provides the following definition:

“CWA” means the Federal Water Pollution Control Act, as amended, (33 U.S.C. 1251 et seq., Public Law 92-500 enacted by Congress October 18, 1972 as amended by the "Clean Water Act", Public Law 95-217, enacted December 12, 1977, as amended.)

25. Section 1362(14) of the CWA, 33 U.S.C.A. §1362(14) (2007), provides the following definition:

14) 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. This term does not include agricultural stormwater discharges and return flows from irrigated agriculture.

26. The discharges consisting of sanitary sewer overflows from the WWTP into the wetlands adjacent to the WWTP and into unnamed tributary to Buffalo Creek are discernible,

confined and discrete conveyances, and therefore constitute a "point sources," as that term is defined in Section 1362(14) of the CWA, 33 U.S.C.A. §1362(14) (2007).

27. The Illinois EPA has never issued a NPDES permit authorizing the point source discharges alleged herein.

28. On February 27, 2009 and March 24, 2009, Respondents caused or allowed the discharge of sanitary sewer overflows from the WWTP into the wetlands adjacent to the WWTP and into the unnamed tributary to Buffalo Creek.

29. By discharging sanitary sewer overflows from the WWTP into the wetlands adjacent to the WWTP and into the unnamed tributary to Buffalo Creek, without an NPDES permit covering those discharges, Respondents violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2008), and Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, Alden Management Services, Inc. and Alden Long Grove Rehabilitation Center, Inc., on this Count VIII:

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

2. Finding that Respondents have violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2008), and Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a);

3. Ordering the Respondents to cease and desist from any further violations of Section 12(f) of the Act, 415 ILCS 5/12(f) (2008), and Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a);

4. Assessing against Respondents, pursuant to Section 42(b)(1) of the Act, a civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation of Section 12(f) of the Act, 415 ILCS 5/12(f) (2008), and Section 309.102(a) of the Board Water Pollution Regulations;

5. Ordering Respondent to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2008), including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

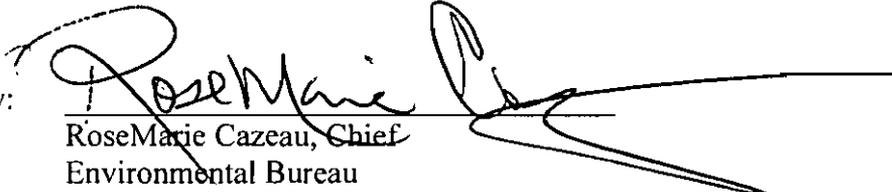
6. Granting such other relief as the Board deems appropriate and just.

Respectfully submitted,

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

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

By:


RoseMarie Cazeau, Chief
Environmental Bureau
Assistant Attorney General

Of Counsel:

George D. Theophilos
Assistant Attorney General
Environmental Bureau
69 W. Washington St., Suite 1800
Chicago, IL 6060
Tel: (312) 814-6986
Fax: (312) 814-2347
Email: gtheophilos@atg.state.il.us

EXHIBIT A



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 - (217) 782-2829
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601 - (312) 814-6026

217/782-0610

ROD R. BLAGOJEVICH, GOVERNOR

DOUGLAS P. SCOTT, DIRECTOR

JAN 09 2009

Alden Long Grove Rehabilitation Center
P.O. Box 2308 RFD, Old Hicks Road
Long Grove, Illinois 60047

Re: Alden Long Grove Rehabilitation Center STP
NPDES Permit No. IL0051934
Final Permit

Gentlemen:

Attached is the final NPDES Permit for your discharge. The Permit as issued covers discharge limitations, monitoring, and reporting requirements. Failure to meet any portion of the Permit could result in civil and/or criminal penalties. The Illinois Environmental Protection Agency is ready and willing to assist you in interpreting any of the conditions of the Permit as they relate specifically to your discharge.

The Agency has begun a program allowing the submittal of electronic Discharge Monitoring Reports (eDMRs) instead of paper Discharge Monitoring Reports (DMRs). If you are interested in eDMRs, more information can be found on the Agency website, <http://epa.state.il.us/water/edmr/index.html>. If your facility is not registered in the eDMR program, a supply of preprinted paper DMR Forms for your facility will be sent to you prior to the initiation of DMR reporting under the reissued permit. Additional information and instructions will accompany the preprinted DMRs upon their arrival.

The attached Permit is effective as of the date indicated on the first page of the Permit. Until the effective date of any re-issued Permit, the limitations and conditions of the previously-issued Permit remain in full effect. You have the right to appeal any condition of the Permit to the Illinois Pollution Control Board within a 35 day period following the issuance date.

Should you have questions concerning the Permit, please contact Ralph Hahn at the telephone number indicated above.

Sincerely,

Alan Keller, P.E.
Manager, Permit Section
Division of Water Pollution Control

SAK:REP:RJH:08102702.bah

Attachment: Final Permit

cc: Records
Compliance Assurance Section
Des Plaines Region
Billing
Alden Management Services, Inc.
CMAP

NPDES Permit No. IL0051934

Illinois Environmental Protection Agency

Division of Water Pollution Control

1021 North Grand Avenue East

Post Office Box 19276

Springfield, Illinois 62794-9276

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

Reissued (NPDES) Permit

Expiration Date: January 31, 2014

Issue Date: January 9, 2009

Effective Date: February 1, 2009

Name and Address of Permittee:

Facility Name and Address:

Alden Long Grove Rehabilitation Center
P.O. Box 2308 RFD, Old Hicks Road
Long Grove, Illinois 60047

Alden Long Grove Rehabilitation Center STP
Old Hicks Road, East of Route 53
Long Grove, Illinois
(Lake County)

Receiving Waters: Unnamed Tributary of Buffalo Creek

In compliance with the provisions of the Illinois Environmental Protection Act, Title 35 of the Ill. Adm. Code, Subtitle C, Chapter I, and the Clean Water Act (CWA), the above-named Permittee is hereby authorized to discharge at the above location to the above-named receiving stream in accordance with the standard conditions and attachments herein.

Permittee is not authorized to discharge after the above expiration date. In order to receive authorization to discharge beyond the expiration date, the Permittee shall submit the proper application as required by the Illinois Environmental Protection Agency (IEPA) not later than 180 days prior to the expiration date.



Alan Keller, P.E.
Manager, Permit Section
Division of Water Pollution Control

SAK:RJH:08102702.bah

NPDES Permit No. IL0051934

Effluent Limitations, Monitoring, and Reporting

FINAL

Discharge Number(s) and Name(s): 001 STP Outfall

Load limits computed based on a design average flow (DAF) of 0.015 MGD (design maximum flow (DMF) of 0.037 MGD).

Excess flow facilities (if applicable) shall not be utilized until the main treatment facility is receiving its maximum practical flow.

From the effective date of this Permit until the expiration date, the effluent of the above discharge(s) shall be monitored and limited at all times as follows:

Parameter	LOAD LIMITS lbs/day <u>DAF (DMF)*</u>			CONCENTRATION <u>LIMITS MG/L</u>			Sample Frequency	Sample Type
	Monthly Average	Weekly Average	Daily Maximum	Monthly Average	Weekly Average	Daily Maximum		
Flow (MGD)							Continuous	
CBOD ₅ **	3.1 (7.7)	5.0 (12)		25	40		1 Day/Month	Grab
Suspended Solids	4.8 (11)	5.8 (14)		37	45		1 Day/Month	Grab
pH	Shall be in the range of 6 to 9 Standard Units						1 Day/Month	Grab
Fecal Coliform***	Daily Maximum shall not exceed 400 per 100 mL (May through October)						1 Day/Month	Grab
Chlorine Residual****						0.05	1 Day/Month	Grab
				Monthly Average not less than	Weekly Average not less than	Daily Minimum		
Dissolved Oxygen								
March - July				—	6.0	5.0	1 Day/Month	Grab
August - February				5.5	4.0	3.5	1 Day/Month	Grab

*Load limits based on design maximum flow shall apply only when flow exceeds design average flow.

**Carbonaceous BOD₅ (CBOD₅) testing shall be in accordance with 40 CFR 136.

***See Special Condition 8.

Flow shall be reported on the Discharge Monitoring Report (DMR) as monthly average and daily maximum.

Fecal Coliform shall be reported on the DMR as a daily maximum value.

pH shall be reported on the DMR as minimum and maximum value.

Chlorine Residual shall be reported on DMR as daily maximum value.

Dissolved oxygen shall be reported on the DMR as a minimum value.

NPDES Permit No. IL0051934

Influent Monitoring, and Reporting

The influent to the plant shall be monitored as follows:

Parameter	Sample Frequency	Sample Type
Flow (MGD)	Continuous	
BOD ₅	1 Day/Month	Composite
Suspended Solids	1 Day/Month	Composite

Influent samples shall be taken at a point representative of the influent.

Flow (MGD) shall be reported on the Discharge Monitoring Report (DMR) as monthly average and daily maximum.

BOD₅ and Suspended Solids shall be reported on the DMR as a monthly average concentration.

NPDES Permit No. IL0051934

Special Conditions

SPECIAL CONDITION 1. This Permit may be modified to include different final effluent limitations or requirements which are consistent with applicable laws, regulations, or judicial orders. The IEPA will public notice the permit modification.

SPECIAL CONDITION 2. The use or operation of this facility shall be by or under the supervision of a Certified Class 4 operator.

SPECIAL CONDITION 3. The IEPA may request in writing submittal of operational information in a specified form and at a required frequency at any time during the effective period of this Permit.

SPECIAL CONDITION 4. The IEPA may request more frequent monitoring by permit modification pursuant to 40 CFR § 122.63 and Without Public Notice in the event of operational, maintenance or other problems resulting in possible effluent deterioration.

SPECIAL CONDITION 5. The effluent, alone or in combination with other sources, shall not cause a violation of any applicable water quality standard outlined in 35 Ill. Adm. Code 302.

SPECIAL CONDITION 6. Samples taken in compliance with the effluent monitoring requirements shall be taken at a point representative of the discharge, but prior to entry into the receiving stream.

SPECIAL CONDITION 7. Final Conditions - For Discharge No. 001: BOD₅ and Suspended Solids (85% removal required): The arithmetic mean of the values for effluent samples collected in a period of one calendar month shall not exceed 15 percent of the arithmetic mean of the values for influent samples collected at approximately the same time during the same period, except during those periods when the influent is diluted because of high flows if the tributary sewer system is combined. The percent removal need not be reported to the IEPA on DMR's but influent and effluent data must be available, as required elsewhere in this Permit, for IEPA inspection and review. For measuring compliance with this requirement, 5 mg/L shall be added to the effluent CBOD₅ concentration to determine the effluent BOD₅ concentration.

SPECIAL CONDITION 8. Fecal Coliform limits for Discharge Number 001 are effective May thru October. Sampling of Fecal Coliform is only required during this time period.

The total residual chlorine limit is applicable at all times. If the Permittee is chlorinating for any purpose during the months of November through April, sampling is required on a daily grab basis. Sampling frequency for the months of May through October shall be as indicated on effluent limitations, monitoring and reporting page of this Permit.

SPECIAL CONDITION 9. The Permittee shall record monitoring results on Discharge Monitoring Report (DMR) Forms using one such form for each outfall each month.

In the event that an outfall does not discharge during a monthly reporting period, the DMR Form shall be submitted with no discharge indicated.

The Permittee may choose to submit electronic DMRs (eDMRs) instead of mailing paper DMRs to the IEPA. More information, including registration information for the eDMR program, can be obtained on the IEPA website, <http://www.epa.state.il.us/water/edmr/index.html>.

The completed Discharge Monitoring Report forms shall be submitted to IEPA no later than the 25th day of the following month, unless otherwise specified by the permitting authority.

Permittees not using eDMRs shall mail Discharge Monitoring Reports with an original signature to the IEPA at the following address:

Illinois Environmental Protection Agency
Division of Water Pollution Control
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276

Attention: Compliance Assurance Section, Mail Code # 19

EXHIBIT B

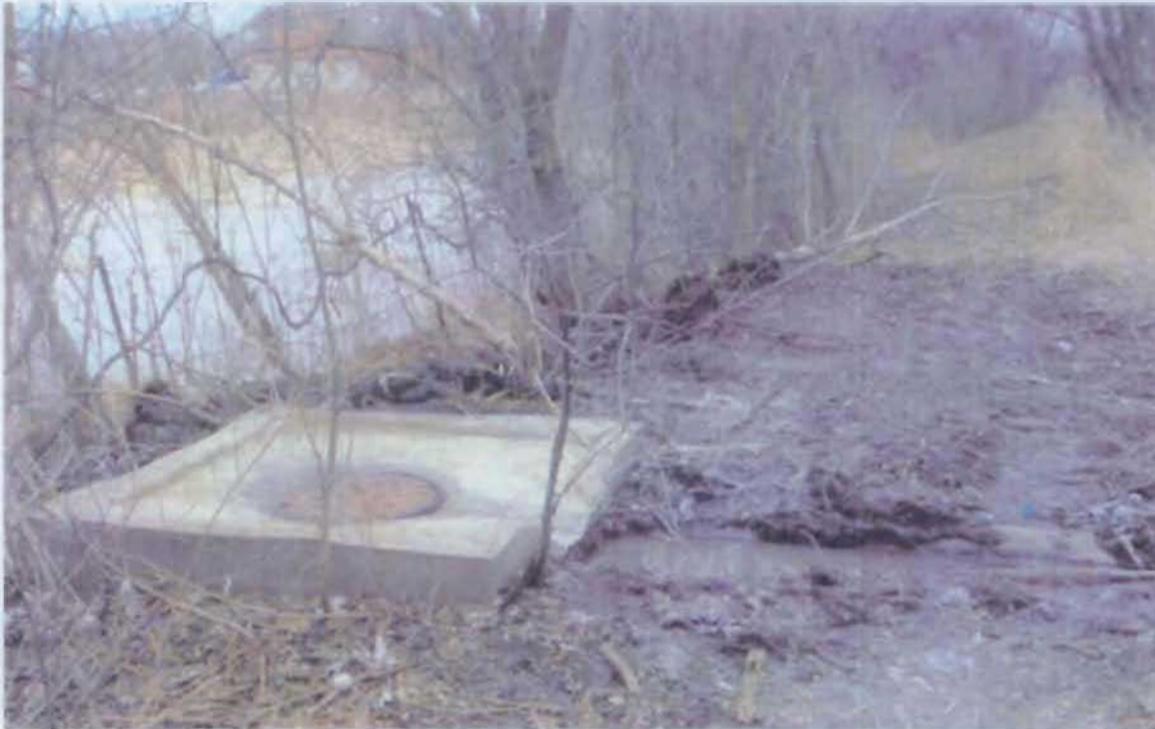


Illinois Environmental Protection Agency
Bureau of Water
Division of Water Pollution Control

Lake County
DWPC
FOS File

DIGITAL PHOTOGRAPHS

File Names: Alden Long Grove -IL0051934



Date:
2/27/09
Photo by:
CK
Comments
Influent
manhole
with
overland
flow
to lagoon
system.



Date:
2/27/09
Photo by:
C Kallis
Comments
Signs of
overflow
from
flow
diversion
was
apparent.

EXHIBIT C



Illinois Environmental Protection Agency
Bureau of Water
Division of Water Pollution Control

Lake County
DWPC
FOS File

DIGITAL PHOTOGRAPHS

File Names: Alden Long Grove -IL0051934



**Date: 2/27/09
Photo by: C
Kallis
Comments:
First stage
lagoon
was septic.**



**Date: 2/27/09
Photo by: C
Kallis
Comments:
Evidence of
that sewage had
entered the open
water wetland
was evident.
Debris was
still present..**

EXHIBIT D



Illinois Environmental Protection Agency
Bureau of Water
Division of Water Pollution Control

Lake County
DWPC
FOS File

DIGITAL PHOTOGRAPHS

File Names: Alden Long Grove -IL0051934



**Date: 2/27/09
Photo by: CK
Comments:
Overflow from
the manhole
on the
north also
evidently had
overflows.
The cover
was open.**



**Date: 2/27/09
Photo by: CK
Comments:
Signs of
Overflow
was evident
at the
upstream
manhole
where
a diversion
trough was
built.**

EXHIBIT E



Illinois Environmental Protection Agency
Bureau of Water
Division of Water Pollution Control

Lake County
DWPC
FOS File

DIGITAL PHOTOGRAPHS

File Names: Alden Long Grove-IL0051934



Date: 3/24/09
Photo by: CK
Comments:
Influent trough
to lagoon.



Date: 3/24/09
Photo by: CK
Comments:
Influent
entering
lagoon.



Illinois Environmental Protection Agency
Bureau of Water
Division of Water Pollution Control

Lake County
DWPC
FOS File

DIGITAL PHOTOGRAPHS

File Names: Alden Long Grove-IL0051934



Date: 3/24/09
Photo by: CK
Comments:
SSO in
northern
manhole.



Date: 3/24/09
Photo by: CK
Comments:
SSO on
northern
manhole.

EXHIBIT F



Illinois Environmental Protection Agency
Bureau of Water
Division of Water Pollution Control

Lake County
DWPC
FOS File

DIGITAL PHOTOGRAPHS

File Names: Alden Long Grove-IL0051934



Date: 3/24/09
Photo by: CK
Comments:
Spilled or
dumped
chemical.



Date: 3/24/09
Photo by: CK
Comments:
Sign located
at STP access.



Illinois Environmental Protection Agency
Bureau of Water
Division of Water Pollution Control

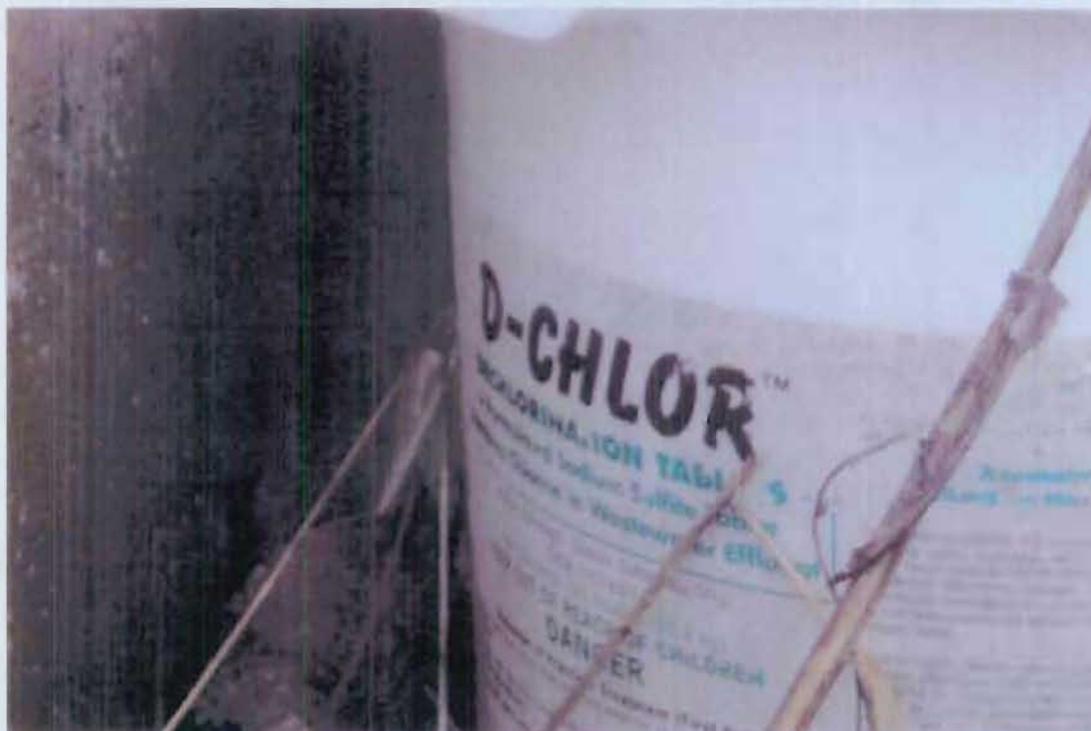
Lake County
DWPC
FOS File

DIGITAL PHOTOGRAPHS

File Names: Alden Long Grove-IL0051934



Date: 3/24/09
Photo by: CK
Comments:
Disinfection
tablet container



Date: 3/24/09
Photo by: CK
Comments:
De-chlorination
Tablets.

CERTIFICATE OF SERVICE

I, GEORGE THEOPHILOS, an Assistant Attorney General, do certify that I caused to be served on this 19th day of July 2010, the foregoing Notice of Filing, Complaint, and a Certificate of Service, by U.S. Certified Mail (return receipt requested), upon the following person:

Alden Management Services, Inc.
Alden Long Grove Rehabilitation and Health Care Center, Inc.
c/o Kenneth J. Fisch, Registered Agent
4200 Peterson Ave #140
Chicago, IL 60646



GEORGE THEOPHILOS