

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
vs.)	PCB No.
)	(Enforcement)
CITY OF COLCHESTER,)	
an Illinois municipal corporation,)	
)	
Respondent.)	

NOTICE OF ELECTRONIC FILING

To: See Attached Service List

PLEASE TAKE NOTICE that on November 8, 2010, I electronically filed with the Clerk of the Pollution Control Board of the State of Illinois, a COMPLAINT, MOTION FOR RELIEF FROM HEARING REQUIREMENT and STIPULATION AND PROPOSAL FOR SETTLEMENT, copies of which are attached hereto and herewith served upon you.

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: Christine Zeivel
Christine Zeivel
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: November 8, 2010

CERTIFICATE OF SERVICE

I hereby certify that I did on November 8, 2010, cause to be served by First Class Mail, 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, MOTION FOR RELIEF FROM HEARING REQUIREMENT and STIPULATION AND PROPOSAL FOR SETTLEMENT upon the persons listed on the Service List.



Christine Zeivel
Assistant Attorney General

This filing is submitted on recycled paper.

SERVICE LIST

Bruce J. Biagini
Flack, McRaven & Stephens
32 West Side Courthouse Square
P.O. Box 359
Macomb, IL 61455

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
vs.)	PCB No.
)	(Enforcement)
CITY OF COLCHESTER,)	
an Illinois municipal corporation,)	
)	
Respondent.)	

MOTION FOR RELIEF FROM HEARING REQUIREMENT

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and pursuant to Section 31(c)(2) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(c)(2) (2008), moves that the Illinois Pollution Control Board grant the parties in the above-captioned matter relief from the hearing requirement imposed by Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2008). In support of this motion, Complainant states as follows:

1. A Complaint and Stipulation and Proposal for Settlement are being filed simultaneously with the Illinois Pollution Control Board ("Board") in this matter.
2. The parties have reached agreement on all outstanding issues in this matter.
3. This agreement is presented to the Board in a Stipulation and Proposal for Settlement, filed contemporaneously with this motion.
4. All parties agree that a hearing on the Stipulation and Proposal for Settlement is not necessary, and respectfully request relief from such a hearing as allowed by Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2008).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby requests that the Board grant this motion for relief from the hearing requirement set forth in Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2008).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS
LISA MADIGAN
ATTORNEY GENERAL

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

BY:



Christine Zeivel
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: November 8, 2010

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS)	
)	
Complainant,)	
)	PCB NO.
v.)	(Enforcement - Water)
)	
)	
CITY OF COLCHESTER,)	
an Illinois municipal corporation,)	
)	
Respondent.)	

COMPLAINT

Complainant, the PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of the Respondent, CITY OF COLCHESTER, an Illinois municipal corporation, 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. The City of Colchester ("Respondent"), is an Illinois municipal corporation located approximately seven (7) miles west of Macomb, Illinois in McDonough County.

4. The Respondent operates a sewage treatment plant and was issued NPDES Permit No. IL0028177 on July 14, 2004 for discharge into an unnamed tributary of the East Fork of the

LaMoine River.

5. On or before April 6, 2006, the Respondent experienced three lift station overflows in association with a 2.5-inch rainfall. The overflows occurred at the Respondent's Bishop Street, Cole Street and North Street lift stations.

6. The overflows caused or allowed the discharge of approximately 300,000 gallons of sewage overflow.

7. The Respondent is a "person" as that term is defined by Section 3.315 of the Act, 415 ILCS 5/3.315 (2008), 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, agency or assigns.

8. The Respondent's discharge is a "contaminant" as that term is defined by Section 3.165 of the Act, 415 ILCS 5/3.165 (2008), as follows:

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

9. Section 12 of the Act, 415 ILCS 5/12 (2008), provides the following prohibitions:

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;

* * * * *

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

* * * *

10. Section 309.102 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 309.102, provides as follows:

- a) Except as in compliance with the provision 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.

11. On or before April 6, 2006, the Respondent caused, threatened or allowed the discharge of contaminants into the environment so as to cause or tend to cause water pollution in Illinois.

12. On or before April 6, 2006, the Respondent deposited contaminants upon the land in such a manner so as to create a water pollution hazard.

13. By causing, threatening or allowing the discharge of contaminants into the environment so as to cause or tend to cause water pollution in Illinois, the Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2008).

14. By depositing contaminants upon the land in such a manner so as to create a water pollution hazard, the Respondent violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2008).

PRAYER FOR RELIEF

WHEREFORE, the Complainant, People of the State of Illinois, respectfully requests that the Board grant the following relief:

- A. Find that the Respondent, CITY OF COLCHESTER, violated the Act and associated regulations as herein alleged;
- B. Order the Respondent to cease and desist from further violations of the Act and

associated regulations;

C. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2008), assess against the Respondent a monetary penalty of up to fifty thousand dollars (\$50,000) for each violation and up to an additional ten thousand dollars (\$10,000) for each day that each violation continued; and

D. Grant such other relief as the Board deems appropriate.

COUNT II
NPDES PERMIT VIOLATIONS

1-10. Complainant realleges and incorporates herein by reference paragraphs 1 through 10 of Count I as paragraphs 1 through 10 of this Count II.

11. Section 12 of the Act, 415 ILCS 5/12 (2008), provides the following prohibitions:

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.

12. Section 304.141(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.141(a), provides as follows:

No person to whom an NPDES Permit has been issued may discharge any contaminant in his effluent in excess of the standards and limitations for that contaminant which are set forth in his permit.

13. Special Condition 11 of the Defendant's NPDES Permit No. IL0028177, provides, in pertinent part, as follows:

Overflows from sanitary sewers are expressly prohibited by Ill. Adm. Code 306.304. Therefore, the Permittee is prohibited to discharge from the following sanitary sewer overflows...:

Cole Street Lift Station Overflow

14. Section 306.304 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 306.304, provides as follows:

Overflows from sanitary sewers are expressly prohibited.

15. On April 6, 2006, the Respondent caused or allowed its Cole Street Lift Station to overflow.

16. By causing or allowing its Cole Street Lift Station to overflow, the Respondent violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2008), Sections 306.304 and 309.102(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 306.304, 309.102(a), and Special Condition 11 NPDES Permit No. IL0028177.

17. By causing, threatening, or allowing the discharge of contaminants into waters of the State in violation of its NPDES permit, the Respondent violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2008) and Sections 304.141(a) and 309.102(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.141(a), 309.102(a).

PRAYER FOR RELIEF

WHEREFORE, the Complainant, People of the State of Illinois, respectfully requests that the Board grant the following relief:

- A. Find that the Respondent, CITY OF COLCHESTER, violated the Act, associated regulations, and NPDES Permit No. IL0028177 as herein alleged;
- B. Order the Respondent to cease and desist from further violations of the Act, associated regulations, and NPDES Permit No. IL0028177;
- C. Assess against the Respondent a monetary penalty of up to fifty thousand dollars (\$50,000) for each violation of Section 12(a) of the Act and the Board's Water Pollution Regulations and up to an additional ten thousand dollars (\$10,000) for each day the violations continued, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2008), as well as ten thousand dollars (\$10,000) for each day that each violation of Section 12(f) of the Act and Sections 309.102, 304.141, and 306.304 of the Board's Water Pollution Regulations continued, pursuant to Section 42(b)(1) of the Act, 415 ILCS 5/42(b)(1) (2008); and
- D. Grant such other relief as the Board deems appropriate.

COUNT III
SYSTEMS RELIABILITY VIOLATIONS

1-10. Complainant realleges and incorporates herein by reference paragraphs 1 through 10 of Count I as paragraphs 1 through 10 of this Count III.

11. Section 306.102 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 306.102, 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.

- (b) Spills: All reasonable measures, including where appropriate the provision of catchment areas, relief vessels, or entrapment dikes, shall be taken to prevent any spillage of contaminants from causing water pollution.

12. By failing to construct and operate its treatment works facility so as to minimize violations of applicable standards during contingencies such as adverse weather and equipment failure, the Respondent violated Section 306.102(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 306.102(a), and Section 12(a) of the Act, 415 ILCS 5/12(a) (2008).

13. By failing to take all reasonable measures to prevent spillage of contaminants from causing water pollution, the Respondent violated Section 306.102(b) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 306.102(b), and Section 12(a) of the Act, 415 ILCS 5/12(a) (2008).

PRAYER FOR RELIEF

WHEREFORE, the Complainant, People of the State of Illinois, respectfully requests that the Board grant the following relief:

- A. Find that the Respondent, CITY OF COLCHESTER, violated the Act and associated regulations as herein alleged;
- B. Order the Respondent to cease and desist from further violations of the Act and associated regulations;
- C. Assess against the Respondent a monetary penalty of up to fifty thousand dollars (\$50,000) for each violation of the Act and regulations and up to an additional ten thousand dollars (\$10,000) for each day that each violation continued; and

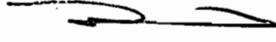
D. Grant such other relief as the Board deems appropriate.

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: 

THOMAS DAVIS
Environmental Bureau
Assistant Attorney General

Of Counsel

CHRISTINE M. ZEIVEL
Assistant Attorney General
500 South Second Street
Springfield, Illinois 62706
217/782-9031

Dated: 11/8/10

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
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Complainant,)	
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v.)	PCB NO.
)	(Enforcement)
CITY OF COLCHESTER,)	
an Illinois municipal corporation,)	
)	
Respondent.)	

STIPULATION AND PROPOSAL FOR SETTLEMENT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, the Illinois Environmental Protection Agency (“Illinois EPA”), and the City of Colchester (“Respondent”) (“Parties to the Stipulation”), have agreed to the making of this Stipulation and Proposal for Settlement (“Stipulation”) and submit it to the Illinois Pollution Control Board (“Board”) for approval. This stipulation of facts is made and agreed upon for purposes of settlement only and as a factual basis for the Board’s approval of this Stipulation and issuance of relief. None of the facts stipulated herein shall be introduced into evidence in any other proceeding regarding the violations of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/1 *et seq.* (2008), and the Board’s Regulations, alleged in the Complaint except as otherwise provided herein. It is the intent of the Parties to the Stipulation that it be a final adjudication of this matter.

I. STATEMENT OF FACTS

A. Parties

1. In conjunction with filing of this Stipulation and Proposal for Settlement, a

Complaint is being filed 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 upon the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2008), against the Respondent.

2. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2008).

3. At all times relevant to the Complaint, the Respondent, City of Colchester, was and continues to be a municipal corporation that is authorized to transact business in the State of Illinois.

4. The Respondent, City of Colchester, owns and operates a sewage treatment plant located approximately seven (7) miles west of Macomb in McDonough County, Illinois ("facility" or "site").

5. On or before April 6, 2006, the Respondent experienced three lift station overflows in association with a 2.5-inch rainfall. The overflows occurred at the Respondent's Bishop Street, Cole Street and North Street lift stations.

6. The overflows caused or allowed the discharge of 300,000 gallons of sewage overflow.

B. Allegations of Non-Compliance

Complainant contends that the Respondent has violated the following provisions of the Act and Board regulations:

Count I: Water Pollution

By causing, threatening, or allowing the discharge of contaminants into the environment so as to cause or tend to cause water pollution in Illinois, the Defendant violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2008).

By depositing contaminants upon the land in such a manner so as to create a water pollution hazard, the Defendant violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2008).

Count II: NPDES Permit Violations

By causing or allowing its Cole Street Lift Station to overflow, the Defendant violated Special Condition 11 of its NPDES permit, Sections 306.304 and 309.102(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 306.304, and Section 12(f) of the Act, 415 ILCS 5/12(f) (2008).

By causing, threatening, or allowing the discharge of contaminants into waters of the State in violation of its NPDES permit, the Defendant violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2008), and Sections 304.141(a) and 309.102(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.141(a).

Count III: Systems Reliability Violations

By failing to construct and operate its treatment works facility so as to minimize violations of applicable standards during contingencies such as adverse weather and equipment failure, the Defendant violated Section 306.102(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 306.102(a), and Section 12(a) of the Act, 415 ILCS 5/12(a) (2008).

By failing to take all reasonable measures to prevent spillage of contaminants from causing water pollution, the Defendant violated Section 306.102(b) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 306.102(b), and Section 12(a) of the Act, 415 ILCS 5/12(a) (2008).

C. Admission of Violations

The Respondent admits to the violations alleged in the Complaint filed in this matter and referenced within Section I.B herein.

D. Compliance Activities to Date

The Respondent has sealed all of the affected manholes to prevent storm water from entering. The Respondent retained an engineering firm to review and evaluate its pumping stations. The Respondent submitted a plan to upgrade its facility, advertised and received bids to complete construction, and has awarded the contract. The Respondent obtained Construction Permit No. 2010-IA-0716 from Illinois EPA on August 3, 2010 and executed an American Recovery and Reinvestment Act ("ARRA") loan agreement with Illinois EPA on August 20, 2010 in order to finance the construction of the upgrade to its facility, which is estimated at a cost of \$639,000.

II. APPLICABILITY

This Stipulation shall apply to and be binding upon the Parties to the Stipulation. The Respondent shall not raise as a defense to any enforcement action taken pursuant to this Stipulation the failure of any of its officers, directors, agents, employees or successors or assigns to take such action as shall be required to comply with the provisions of this Stipulation. This Stipulation may be used against the Respondent in any subsequent enforcement action or permit proceeding as proof of a past adjudication of violation of the Act and the Board Regulations for all violations alleged in the Complaint in this matter, for purposes of Sections 39 and 42 of the Act, 415 ILCS 5/39 and 5/42 (2008).

III. IMPACT ON THE PUBLIC RESULTING FROM ALLEGED NON-COMPLIANCE

Section 33(c) of the Act, 415 ILCS 5/33(c)(2006), provides as follows:

In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions,

discharges, or deposits involved including, but not limited to:

1. the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
2. the social and economic value of the pollution source;
3. the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;
4. the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
5. any subsequent compliance.

In response to these factors, the Parties to the Stipulation state the following:

1. Human health and the environment were threatened by the Respondent's violations.
2. There is social and economic benefit to the facility.
3. Operation of the facility was suitable for the area in which it occurred.
4. Compliance with the Act and Board regulations is both technically practicable and economically reasonable.
5. Respondent has taken affirmative measures to achieve compliance with the Act and the Board Regulations.

IV. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h)(2006), provides as follows:

In determining the appropriate civil penalty to be imposed under . . . this Section, the Board is authorized to consider any matters of record in mitigation or aggravation of penalty, including but not limited to the following factors:

1. the duration and gravity of the violation;
2. the presence or absence of due diligence on the part of the respondent in attempting to comply with requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;
3. any economic benefits accrued by the respondent because of delay in compliance with requirements, in which case the economic benefits shall be determined by the lowest cost alternative for achieving compliance;
4. the amount of monetary penalty which will serve to deter further violations by the respondent and to otherwise aid in enhancing voluntary compliance with this Act by the respondent and other persons similarly subject to the Act;
5. the number, proximity in time, and gravity of previously adjudicated violations of this Act by the respondent;
6. whether the respondent voluntarily self-disclosed, in accordance with subsection i of this Section, the non-compliance to the Agency; and
7. whether the respondent has agreed to undertake a "supplemental environmental project," which means an environmentally beneficial project that a respondent agrees to undertake in settlement of an enforcement action brought under this Act, but which the respondent is not otherwise legally required to perform.

In response to these factors, the Parties to the Stipulation state as follows:

1. Three lift stations overflowed on April 6, 2006. The estimated volume of discharged sanitary wastewater from the three lift stations is approximately 300,000 gallons.
2. Respondent reported the overflows to the Illinois EPA and immediately implemented various rudimentary measures, such as clearing the storm water drains and sealing some of the affected manholes to prevent inflow. The Respondent has since obtained a construction permit and the necessary funding to make improvements to the sanitary sewer collection system.

3. The Respondent delayed the costs involved with inspecting and cleaning its sanitary sewer collection lines and constructing needed upgrades to the sanitary sewer system, which the Respondent estimates at a cost of \$620,000.00. Using the U.S. Environmental Protection Agency's BEN model to calculate, the Respondent may have gained an economic benefit of \$53,180.00 by its noncompliance. However, the Respondent is a not for profit municipality in a small rural town where the median income is below that of both the County and the State, so it is uncertain whether the Respondent actually benefitted from the alleged noncompliance.

4. Complainant has determined, based upon the specific facts of this matter, that a penalty of Five Thousand Three Hundred and Forty Six Dollars (\$5,346.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

5. To Complainant's knowledge, Respondent has no previously adjudicated violations of the Act.

6. The facility operator reported the overflows to the Illinois EPA; however, the Respondent was required by its NPDES Permit to make such reports.

7. The settlement of this matter does not include a supplemental environmental project.

V. TERMS OF SETTLEMENT

A. Penalty Payment

1. The Respondent shall pay a civil penalty in the sum of Five Thousand Three Hundred and Forty Six Dollars (\$5,346.00) within thirty (30) days from the date the Board

adopts and accepts this Stipulation.

B. Stipulated Penalties, Interest and Default

1. If the Respondent fails to complete any activity or fails to comply with any response or reporting requirement by the date specified in this Stipulation, the Respondent shall provide notice to the Complainant of each failure to comply with this Stipulation and shall pay stipulated penalties in the amount of \$250.00 per week until such time that compliance is achieved. The Complainant may make a demand for stipulated penalties upon the Respondent for its noncompliance with this Consent Order. However, failure by the Complainant to make this demand shall not relieve the Respondent of the obligation to pay stipulated penalties. All stipulated penalties shall be payable within thirty (30) calendar days of the date the Respondent knows or should have known of its noncompliance with any provision of this Stipulation.

2. If the Respondent fails to make any payment required by this Stipulation on or before the date upon which the payment is due, the Respondent shall be in default and the remaining unpaid balance of the penalty, plus any accrued interest, shall be due and owing immediately. In the event of default, the Complainant shall be entitled to reasonable costs of collection, including reasonable attorney's fees.

3. Pursuant to Section 42(g) of the Act, interest shall accrue on any penalty amount owed by the Respondent not paid within the time prescribed herein. Interest on unpaid penalties shall begin to accrue from the date such are due and continue to accrue to the date full payment is received. Where partial payment is made on any penalty amount that is due, such partial payment shall be first applied to any interest on unpaid penalties then owing.

C. Payment Procedures

All payments required by this Stipulation shall be made by certified check or money order payable to the Illinois EPA for deposit into the Environmental Protection Trust Fund ("EPTF"). Payments shall be sent by first class mail and delivered to:

Illinois Environmental Protection Agency
Fiscal Services
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

The name, case number and the Respondent's federal tax identification number shall appear on the face of the certified check or money order. A copy of the certified check or money order and any transmittal letter shall be sent to:

Christine Zeivel
Environmental Bureau
Illinois Attorney General's Office
500 South Second Street
Springfield, Illinois 62706

D. Future Compliance

1. The Respondent shall adhere to the following schedule:
 - a. Issue Notice to Proceed by September 31, 2010;
 - b. Begin construction by October 31, 2010;
 - c. Achieve substantial completion of construction by July 31, 2011; and
 - d. Complete all construction as listed in Section III.D.2 below by August 31, 2011.

2. The Respondent shall complete the following improvements to the facility by August 31, 2011:

- a. Replace the existing 4" forcemains on Coal Street, Amity Street, and

McLean Street with new 6" and 4" forcemains;

- b. Replace the deteriorated and damaged gravity mains at various locations;
- c. Replace broken sanitary sewer pipes beneath U.S. Route 136; and
- d. Replace lift station wet well located on Coal Street.

3. The Respondent shall modify and enforce its existing sewer use ordinance to prohibit the connection of new clean water sources to their sanitary sewage collection system and require the removal of all existing clean water sources within three (3) years from the date the Board adopts and accepts this Stipulation. Clean water sources include, but are not limited to, basement perimeter tiles and sump pumps, downspouts, yard drains and storm water inlets.

4. The Respondent shall also modify its sewer use ordinance to limit discharges of total phosphorus to the sewer system to a daily maximum of 30 mg/l.

5. The Respondent shall adopt a sewer system CMOM (Capacity, Management, Operation and Maintenance) Program as developed by its consulting engineers. This program shall include routine cleaning of the entire sanitary sewer system at least once every four (4) years with problem areas cleaned more often as needed.

6. In addition to any other authorities, the Illinois EPA, its employees and representatives, and the Attorney General, her employees and representatives, shall have the right of entry into and upon the Respondent's facility which is the subject of this Stipulation, at all reasonable times for the purposes of conducting inspections and evaluating compliance status. In conducting such inspections, the Illinois EPA, its employees and representatives, and the Attorney General, her employees and representatives, may take photographs, samples, and collect information, as they deem necessary.

7. This Stipulation in no way affects the responsibilities of the Respondent to comply with any other federal, state or local laws or regulations, including but not limited to the Act and the Board Regulations.

8. The Respondent shall cease and desist from future violations of the Act and Board Regulations that were the subject matter of the Complaint.

E. Release from Liability

In consideration of the Respondent's payment of the \$5,346.00 penalty and its commitment to complete necessary improvements to the facility and cease and desist as contained in Section V.D. above, and upon the Board's approval of this Stipulation, the Complainant releases, waives and discharges the Respondent from any further liability or penalties for the violations of the Act and Board Regulations that were the subject matter of the Complaint herein. The release set forth above does not extend to any matters other than those expressly specified in Complainant's Complaint filed simultaneously with this Stipulation. The Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against the Respondent with respect to all other matters, including but not limited to, the following:

- a. criminal liability;
- b. liability for future violation of state, federal, local, and common laws and/or regulations;
- c. liability for natural resources damage arising out of the alleged violations; and
- d. liability or claims based on the Respondent's failure to satisfy the requirements of this Stipulation.

Nothing in this Stipulation is intended as a waiver, discharge, release, or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the State of Illinois may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315 (2008), or entity other than the Respondent.

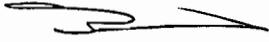
F. Enforcement and Modification of Stipulation

Upon the entry of the Board's Order approving and accepting this Stipulation, that Order is a binding and enforceable order of the Board and may be enforced as such through any and all available means.

G. Execution of Stipulation

The undersigned representatives for the Parties to the Stipulation certify that they are fully authorized by the party whom they represent to enter into the terms and conditions of this Stipulation and to legally bind them to it.

WHEREFORE, the Parties to the Stipulation request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

<p>PEOPLE OF THE STATE OF ILLINOIS, LISA MADIGAN Attorney General State of Illinois MATTHEW J. DUNN, Chief Environmental Enforcement/ Asbestos Litigation Division BY:  THOMAS DAVIS, Chief Environmental Bureau Assistant Attorney General DATE: <u>11/08/10</u></p>	<p>FOR THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY DOUGLAS P. SCOTT, Director Illinois Environmental Protection Agency BY:  JOHN J. KIM Chief Legal Counsel DATE: <u>11/4/10</u></p>
<p>CITY OF COLCHESTER BY:  Name: <u>DANNY L. BICK</u> Title: <u>MAYOR</u> DATE: <u>10-14-10</u></p>	