

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
 by LISA MADIGAN, Attorney)
 General of the State of Illinois,)
)
 Complainant,)
)
 v.)
)
 VILLAGE OF ATKINSON, an Illinois municipal)
 corporation,)
)
 Respondent.)

PCB No.
(Enforcement - Water)

NOTICE OF ELECTRONIC FILING

To: **Via Certified Mail**
 Village of Atkinson
 c/o August Junior, Mayor
 107 West Main Street
 Atkinson, Illinois 61235

Via Certified Mail
 Virgil A. Thurman, Esq.
 137 South State Street
 Suite 208
 Geneseo, IL 61254

PLEASE TAKE NOTICE that on April 30, 2013, the Complainant filed with the Office of the Clerk of the Pollution Control Board by electronic filing the Complaint, Stipulation and Proposal for Settlement and Motion for Relief from Hearing Requirement, copies of which are attached and hereby served upon you. Financing may be available, through the Illinois Environmental Facilities Financing Act, to correct the violations alleged in the Complaint.

PEOPLE OF THE STATE OF ILLINOIS,
ex rel. LISA MADIGAN, Attorney General
of the State of Illinois

By: 
 Kathryn A. Pament
 Assistant Attorney General
 Environmental Bureau
 69 W. Washington St., 18th Floor
 Chicago, IL 60602
 (312) 814-0608

DATE: April 30, 2013

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 by LISA MADIGAN, Attorney)
 General of the State of Illinois,)
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COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, VILLAGE OF ATKINSON, an Illinois municipal corporation, as follows:

COUNT I
WATER POLLUTION

1. This Complaint is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, 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 (2012), against Respondent Village of Atkinson.

2. The Illinois EPA is an administrative agency of the State of Illinois, created by Section 4 of the Act, 415 ILCS 5/4 (2012), and charged, *inter alia*, with the duty of enforcing the Act.

3. At all times relevant to this Complaint, the VILLAGE OF ATKINSON (the "Village") is and has been a municipal corporation duly organized and existing under the laws of the State of Illinois.

4. The Village has a population of approximately 1,000 citizens and is located in Henry County, Illinois.

5. The Village owns and operates a sewage treatment plant ("Village STP") located at 19696 East 2200 Street, Atkinson, Henry County, Illinois. The Village STP discharges its treated wastewater to the Green River pursuant to National Pollutant Discharge Elimination System Permit No. ILG580018 (the "NPDES Permit").

6. The Village NPDES Permit expired on December 31, 2007. However, its terms have been administratively continued because the Village timely submitted to the Illinois EPA a renewal application more than 180 days prior to the expiration of the permit.

7. In March 2008, Atkinson Landfill Co. ("ALC") submitted an Application for Permit or Construction Approval to the Illinois EPA (the "ALC Application") to obtain authorization to discharge landfill leachate at the Village STP via tanker truck hauling in the amount of approximately 12,000 gallons per day.

8. On March 3, 2008, the Village certified (the "Certification") to the Illinois EPA as part of the ALC Application that "the waste treatment plant to which this project will be tributary has adequate reserve capacity to treat the wastewater that will be added by this project without causing a violation of the Environmental Protection Act or Subtitle C, Chapter 1." A true and correct copy of the Village's Certification is attached hereto as Exhibit 1.

9. On April 3, 2008, the Illinois EPA issued Operating Permit No. 2008-EO-0331 to ALC (the "ALC Operating Permit"). A true and correct copy of the ALC Operating Permit is attached hereto as Exhibit 2. The ALC Operating Permit provides:

Permit is hereby granted to the above designated permittee(s) to construct and/or operate water pollution control facilities described as follows:

The hauling of approximately 12,000 gpd (DMF of 12,000 gpd) of landfill leachate to the headworks of the Village of Atkinson STP.

10. The Illinois EPA authorized the limit of approximately 12,000 gallons per day in the ALC Operating Permit based, in part, on the Village's Certification.

11. On August 24, 2011, the Illinois EPA conducted an inspection at the Village STP, including records maintained at the Village. During March 2011 and April 2011, the Village accepted landfill leachate from ALC in excess of the approximately 12,000 gallon per day limit allowed under the ALC Operating Permit. The dates and amounts of landfill leachate that the Village accepted from ALC are as follows:

<u>Date</u>	<u>Amount</u>	<u>Date</u>	<u>Amount</u>
March 16, 2011	16,960 gallons	April 1, 2011	42,400 gallons
March 17, 2011	12,720 gallons	April 4, 2011	38,160 gallons
March 18, 2011	12,720 gallons	April 5, 2011	42,400 gallons
March 21, 2011	12,720 gallons	April 6, 2011	42,400 gallons
March 22, 2011	12,720 gallons	April 7, 2011	42,400 gallons
March 23, 2011	12,720 gallons	April 8, 2011	25,440 gallons
March 24, 2011	12,720 gallons	April 9, 2011	38,160 gallons
March 25, 2011	12,720 gallons	April 11, 2011	50,880 gallons
March 28, 2011	12,720 gallons	April 12, 2011	50,880 gallons
March 29, 2011	12,720 gallons		
March 30, 2011	42,400 gallons		
March 31, 2011	21,200 gallons		

12. Section 12(a) of the Act, 415 ILCS 5/12(a) (2012), provides 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.

13. Section 3.315 of the Act, 415 ILCS 5/3.315 (2012), provides as follows:

“PERSON” is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.
14. The Village, an Illinois municipal corporation, is a “person,” as that term is defined by Section 3.315 of the Act, 415 ILCS 5/3.315 (2012).
15. Section 3.550 of the Act, 415 ILCS 5/3.550 (2012), provides 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.
16. The Green River constitutes “waters” of the State of Illinois, as that term is defined by Section 3.550 of the Act, 415 ILCS 5/3.550 (2012).
17. Section 3.165 of the Act, 415 ILCS 5/3.165 (2012), provides as follows:

“CONTAMINANT” is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.
18. The leachate generated at the ALC landfill and disposed of at the Village STP is a “contaminant” as that term is defined by Section 3.165 of the Act, 415 ILCS 5/3.165 (2012).
19. Section 3.545 of the Act, 415 ILCS 5/3.545 (2012), provides 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.

20. Accepting landfill leachate in excess of the limits of an operating permit may cause serious harm to the Village STP by upsetting the treatment process, interfering with the normal operations of the treatment plant and allowing landfill leachate to pass through the treatment plant untreated.

21. Leachate generated by landfills passing through the Village STP untreated into the Green River 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.

22. By accepting landfill leachate in excess of the limits of the ALC Operating Permit in March and April 2011, and thereby threatening the pass through of untreated wastewater into the Green River, the Village threatened the discharge of a contaminant into waters of the State which could cause or tend to cause water pollution in violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2012).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, VILLAGE OF ATKINSON, with respect to this Count I:

1. Authorizing a hearing in this matter at which time the Village of Atkinson will be required to answer the allegations contained herein;
2. Finding that the Village of Atkinson violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2012);
3. Ordering the Village of Atkinson to cease and desist from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2012);

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

5. Ordering the Village of Atkinson to pay all costs of this action pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2012), 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.

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: 
ELIZABETH WALLACE, Chief
Environmental Bureau
Assistant Attorney General

Of Counsel:
KATHRYN A. PAMENTER
Assistant Attorney General
Environmental Bureau
69 W. Washington, Suite 1800
Chicago, Illinois 60602
(312) 814-0608

EXHIBIT 1



Illinois Environmental Protection Agency
 Permit Section, Division of Water Pollution Control
 P.O. Box 19276
 Springfield, Illinois 62794-9276

0331-08

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 MAR 04 2013
 Environmental Protection Agency

Application for Permit or Construction Approval
 WPC-PS-1

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RECEIVED
 MAR 28 2013
 WPC Permit Log III

1. Owner Name: Atkinson Landfill Company
 Name of Project: Atkinson Landfill Leachate Discharge
 Township: Atkinson County: Henry

2. Brief Description of Project:
Discharge of landfill leachate at the Village of Atkinson Sewer Treatment Plant via tanker truck hauling

3. Documents Being Submitted: If the Project involves any of the items listed below, submit the corresponding schedule, and check the appropriate boxes.

	Schedule		Schedule
Private Sewer Connection/Extension	A/B <input type="checkbox"/>	Spray Irrigation	H <input type="checkbox"/>
Sewer Extension Construct Only	C <input type="checkbox"/>	Septic Tanks	I <input type="checkbox"/>
Sewage Treatment Works	D <input type="checkbox"/>	Industrial Treatment/Pretreatment	J <input type="checkbox"/>
Excess Flow Treatment	E <input type="checkbox"/>	Waste Characteristics	N <input checked="" type="checkbox"/>
Lift Station/Force Main	F <input type="checkbox"/>	Erosion Control	P <input type="checkbox"/>
Fast Track Service Connection	FTP <input type="checkbox"/>	Trust Disclosure	T <input type="checkbox"/>
Sludge Disposal	G <input type="checkbox"/>		

Plans: Title _____
 _____ No. of Pages: _____

Specifications: Title _____
 _____ No. of Books/Pages: _____

Other Documents: _____
 (Please Specify)

- 3.1 Illinois Historic Preservation Agency approval letter: Yes No
4. Land Trust: Is the project identified in item number 1 herein, for which a permit is requested, to be constructed on land which is the subject of a trust? Yes No

If yes, Schedule T (Trust Disclosure) must be completed and item number 7.1.1 must be signed by a beneficiary, trustee or trust officer.

5. This is an Application for (Check Appropriate Line):
- A. Joint Construction and Operating Permit
 - B. Authorization to Construct (See Instructions) NPDES Permit No. IL00 _____
 - C. Construct Only Permit (Does Not Include Operations)
 - D. Operate Only Permit (Does Not Include Construction)

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6. Certifications and Approval:

6.1 Certificate by Design Engineer (When required: refer to instructions)

I hereby certify that I am familiar with the information contained in this application, including the attached schedules indicated above, and that to the best of my knowledge and belief such information is true, complete and accurate. The plans and specifications (specifications other than Standard Specifications or local specifications on file with this Agency) as described above were prepared by me or under my direction.

Engineer Name: _____

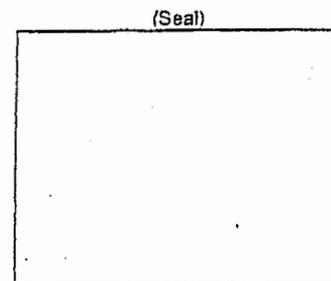
Registration Number: _____
(3 digits) (6 digits)

Firm: _____

Address: _____

City: _____ State: _____ Zip: _____ Phone No: _____

Signature X _____ Date: _____



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7. Certifications and Approvals for Permits:

7.1 Certificate by Applicant(s)

I/We hereby certify that I/we have read and thoroughly understand the conditions and requirements of this Application, and am/are authorized to sign this application in accordance with the Rules and Regulations of the Illinois Pollution Control Board. I/We hereby agree to conform with the Standard Conditions and with any other Special Conditions made part of this Permit.

7.1.1 Name of Applicant for Permit to Construct: N/A

Address: _____

City: _____ State: _____ Zip Code: _____

Signature X _____ Date: _____

Printed Name: _____ Phone No: _____

Title: _____

Organization: _____

7.1.2 Name of Applicant for Permit to Own and Operate: Atkinson Landfill Company

Address: 221 North Washtenaw

City: Chicago State: IL Zip Code: 60612

Signature X *Branko Vardjan* Date: _____

Printed Name: Branko Vardjan Phone No: (773) 761-7706

Title: President

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7.2 Attested (Required When Applicant is a Unit of Government)

Signature X _____ Date: _____

Title: _____
(City Clerk, Village Clerk, Sanitary District Clerk, Etc.)

7.3 Applications from non-governmental applicants which are not signed by the owner, must be signed by a principal executive officer of at least the level of vice president, or a duly authorized representative.

7.4 Certificate By Intermediate Sewer Owner

I hereby certify that (Please check one):

- 1. The sewers to which this project will be tributary have adequate reserve capacity to transport the wastewater that will be added by this project without causing a violation of the environmental Protection Act or Subtitle C, Chapter I, or
- 2. The Illinois Pollution Control Board, in PCB _____ dated _____ granted a variance from Subtitle C, Chapter I to allow construction of facilities that are the subject of this application.

Name and location of sewer system to which this project will be tributary:

Sewer System Owner: Village of Atkinson Sewer System

Address: 107 West Main St, PO Box 614

City: Atkinson State: IL Zip Code: 61235

Signature X *Guy Pauley* Date: _____

Printed Name: Guy Pauley Phone No: 309-936-7658

Title: Mayor of Atkinson, IL 61235

7.4.1 Additional Certificate By Intermediate Sewer Owner

I hereby certify that (Please check one):

- 1. The sewers to which this project will be tributary have adequate reserve capacity to transport the wastewater that will be added by this project without causing a violation of the environmental Protection Act or Subtitle C, Chapter I, or
- 2. The Illinois Pollution Control Board, in PCB _____ dated _____ granted a variance from Subtitle C, Chapter I to allow construction facilities that are the subject of this application.
- 3. Not applicable

Name and location of sewer system to which this project will be tributary:

Sewer System Owner: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Signature X _____ Date: _____

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Printed Name: _____ Phone No: _____

Title: _____

7.5 Certificate By Waste Treatment Works Owner

I hereby certify that (Please check one):

- 1. The waste treatment plant to which this project will be tributary has adequate reserve capacity to treat the wastewater that will be added by this project without causing a violation of the Environmental Protection Act or Subtitle C, Chapter I, or
- 2. The Illinois Pollution Control Board, in PCB _____ dated _____ granted a variance from Subtitle C, Chapter I to allow construction and operation of the facilities that are the subject of this application.
- 3. Not applicable

I also certify that, if applicable, the industrial waste discharges described in the application are capable of being treated by the treatment works.

Name of Waste Treatment Works: Village of Atkinson Sewer Treatment Facility

Waste Treatment Works Owner: Village of Atkinson

Address: 107 West Main Street

City: Atkinson State: IL Zip Code: 61235

Signature X [Signature] Date: _____

Printed Name: Guy Pawley Phone No: 309-930-7658

Title: Mayor of Atkinson, IL 61235

Please return completed form to the following address:

Illinois Environmental Protection Agency
Permit Section, Division of Water Pollution Control
P.O. Box 19276
Springfield, Illinois 62794-9276

This Agency is authorized to require this information under Illinois Revised Statutes, 1979, Chapter 111 1/2, Section 1039. Disclosure of this information is required under that Section. Failure to do so may prevent this form from being processed and could result in your application being denied. This form has been approved by the Forms Management Center.

EXHIBIT 2

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY **SCREEN**
WATER POLLUTION CONTROL PERMIT

LOG NUMBERS: 0331-08

PERMIT NO.: 2008-EO-0331

FINAL PLANS, SPECIFICATIONS, APPLICATION
AND SUPPORTING DOCUMENTS
PREPARED BY: Atkinson Landfill Company

DATE ISSUED: April 3, 2008

SUBJECT: ATKINSON LANDFILL COMPANY - Hauling of Landfill Leachate - Tributary to the Village of Atkinson STP

PERMITTEE TO OWN AND OPERATE

Atkinson Landfill Company
221 North Washtenaw
Chicago, IL 60612

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LEAS
SABLE

Permit is hereby granted to the above designated permittee(s) to construct and/or operate water pollution control facilities described as follows:

The hauling of approximately 12,000 gpd (DMF of 12,000 gpd) of landfill leachate to the headworks of the Village of Atkinson STP.

This operating permit expires on March 31, 2013.

This Permit is issued subject to the following Special Condition(s). If such Special Condition(s) require(s) additional or revised facilities, satisfactory engineering plan documents must be submitted to this Agency for review and approval for issuance of a Supplemental Permit.

SPECIAL CONDITION 1: This Permit is issued with the expressed understanding that there shall be no surface discharge from these facilities. If such discharge occurs, additional or alternate facilities shall be provided. The construction of such additional or alternate facilities may not be started until a Permit for the construction is issued by this Agency.

SPECIAL CONDITION 2: The issuance of this permit does not relieve the permittee of the responsibility of complying with 35 Ill. Adm. Code, Part 307 and/or the General Pretreatment Regulations (40 CFR 403) and any guidelines developed pursuant to Section 301, 306, or 307 of the Federal Clean Water Act of 1977.

SPECIAL CONDITION 3: The issuance of this permit does not relieve the permittee of the responsibility of complying with any limitations and provisions imposed by the City of Atkinson.

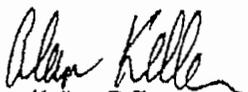
Page 1 of 2

THE STANDARD CONDITIONS OF ISSUANCE INDICATED ON THE REVERSE SIDE MUST BE COMPLIED WITH IN FULL. READ ALL CONDITIONS CAREFULLY.

SAK:LRL:033108

DIVISION OF WATER POLLUTION CONTROL

cc: EPA - Peoria FOS
Atkinson Landfill Company
Village of Atkinson Sewer Treatment Facility
Records - Municipal
Records - Industrial
Binds


Alan Keller, P.E.
Manager, Permit Section

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
WATER POLLUTION CONTROL PERMIT

SCREENING

LOG NUMBERS: 0331-08

PERMIT NO.: 2008-EO-0331

FINAL PLANS, SPECIFICATIONS, APPLICATION
AND SUPPORTING DOCUMENTS

DATE ISSUED: April 3, 2008

PREPARED BY: Atkinson Landfill Company

SUBJECT: ATKINSON LANDFILL COMPANY - Hauling of Landfill Leachate - Tributary to the Village of Atkinson STP

SPECIAL CONDITION 4: This permit is being issued with the expressed understanding that the transportation of wastewater to the Village of Atkinson Sewer Treatment Facility for treatment will be done in accordance with the following IEPA Bureau of Land requirements:

These regulations as identified in 35 Ill. Adm. Code 809, state that the generator may not give the waste to a hauler unless the hauler has obtained an Illinois special waste haulers license; the hauler may not accept the waste unless it is accompanied by the required manifest; and the receiving facility can not accept the waste unless it is delivered by a licensed special waste hauler or exempt hauler, accompanied by the required manifest and the receiving facility has obtained the required permits to receive the waste.

The authorization number is no longer issued by this Agency. Therefore, you will no longer be required to identify the authorization number on the manifest when shipping waste as authorized by this permit.

READ ALL CONDITIONS CAREFULLY:
STANDARD CONDITIONS

The Illinois Environmental Protection Act (Illinois Revised Statutes Chapter 111-12, Section 1039) grants the Environmental Protection Agency authority to impose conditions on permits which it issues.

1. Unless the construction for which this permit is issued has been completed, this permit will expire (1) two years after the date of issuance for permits to construct sewers or wastewater sources or (2) three years after the date of issuance for permits to construct treatment works or pretreatment works.
2. The construction or development of facilities covered by this permit shall be done in compliance with applicable provisions of Federal laws and regulations, the Illinois Environmental Protection Act, and Rules and Regulations adopted by the Illinois Pollution Control Board.
3. There shall be no deviations from the approved plans and specifications unless a written request for modification of the project, along with plans and specifications as required, shall have been submitted to the Agency and a supplemental written permit issued.
4. The permittee shall allow any agent duly authorized by the Agency upon the presentations of credentials:
 - a. to enter at reasonable times, the permittee's premises where actual or potential effluent, emission or noise sources are located or where any activity is to be conducted pursuant to this permit;
 - b. to have access to and copy at reasonable times any records required to be kept under the terms and conditions of this permit;
 - c. to inspect at reasonable times, including during any hours of operation of equipment constructed or operated under this permit, such equipment or monitoring methodology or equipment required to be kept, used, operated, calibrated and maintained under this permit;
 - d. to obtain and remove at reasonable times samples of any discharge or emission of pollutants;
 - e. to enter at reasonable times and utilize any photographic, recording, testing, monitoring or other equipment for the purpose of preserving, testing, monitoring, or recording any activity, discharge, or emission authorized by this permit.
5. The issuance of this permit:
 - a. shall not be considered as in any manner affecting the title of the premises upon which the permitted facilities are to be located;
 - b. does not release the permittee from any liability for damage to person or property caused by or resulting from the construction, maintenance, or operation of the proposed facilities;
 - c. does not release the permittee from compliance with other applicable statutes and regulations of the United States, of the State of Illinois, or with applicable local laws, ordinances and regulations;
 - d. does not take into consideration or attest to the structural stability of any units or parts of the project;
 - e. in no manner implies or suggests that the Agency (or its officers, agents or employees) assumes any liability, directly or indirectly, for any loss due to damage, installation, maintenance, or operation of the proposed equipment or facility.
6. Unless a joint construction/operation permit has been issued, a permit for operating shall be obtained from the agency before the facility or equipment covered by this permit is placed into operation.
7. These standard conditions shall prevail unless modified by special conditions.
8. The Agency may file a complaint with the Board for suspension or revocation of a permit:
 - a. upon discovery that the permit application contained misrepresentations, misinformation or false statement or that all relevant facts were not disclosed; or
 - b. upon finding that any standard or special conditions have been violated; or
 - c. upon any violation of the Environmental Protection Act or any Rules or Regulation effective thereunder as a result of the construction or development authorized by this permit.

the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2012), 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 (2012).

3. At all times relevant to the Complaint, Respondent was and is an Illinois municipal corporation. At all times relevant to the Complaint, the Respondent owned and operated a sewage treatment plant located at 19696 East 2200 Street, Atkinson, Henry County, Illinois ("Village STP").

4. The Village STP discharges its treated wastewater to the Green River pursuant to National Pollutant Discharge Elimination System Permit No. ILG580018.

B. Allegations of Non-Compliance

Complainant contends that the Respondent has violated the following provision of the Act:

Count I: Water Pollution: in violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2012).

C. Admission of Violations

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

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 a 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 42 (2012).

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

Section 33(c) of the Act, 415 ILCS 5/33(c) (2012), 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 when the Respondent accepted landfill leachate at the Village STP in excess of permitted amounts.
2. There is social and economic benefit to the Village STP.
3. The Respondent's operation of the Village STP was and is suitable for the area in which it is located.
4. Accepting landfill leachate in a volume in accordance with the Village STP's

capacity limits to treat wastewater is both technically practicable and economically reasonable.

5. The Respondent has subsequently complied with the Act.

IV. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h) (2012), 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;
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; and
8. whether the respondent has successfully completed a Compliance Commitment Agreement under subsection (a) of Section 31 of this Act to remedy the violations that are the subject of the complaint.

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

1. On several occasions between March 16, 2011 and April 12, 2011, the Respondent accepted landfill leachate generated by Atkinson Landfill Co. ("ALC") in excess of the limits of the operating permit that the Illinois EPA issued to ALC, and thereby threatened the discharge of contaminants into waters of the State that could cause or tend to cause water pollution.

2. Upon receipt of the Illinois EPA's notification of its noncompliance, the Respondent was diligent in returning to compliance with the Act.

3. Any economic benefit obtained by the Respondent is accounted for in the \$2,000.00 civil penalty that the Respondent has agreed to pay in this matter.

4. Based upon the specific facts of this case, the Complainant has determined that a penalty of \$2,000.00 will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

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

6. Self-disclosure is not at issue in this matter.

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

8. A Compliance Commitment Agreement was not at issue in this matter.

V. TERMS OF SETTLEMENT

A. Penalty Payment

1. The Respondent shall pay a civil penalty in the sum of Two Thousand Dollars (\$2,000.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

B. Interest and Default

1. 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.

2. 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

1. 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, Illinois 62794-9276

2. The case name and case number shall appear on the face of the certified check or money order.

3. A copy of the certified check or money order and any transmittal letter shall be sent to:

Kathryn A. Pamenter
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602

D. Future Compliance

1. 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.

2. 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.

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

E. Release from Liability

In consideration of the Respondent's payment of the \$2,000.00 penalty, its commitment to cease and desist as contained in Section V.D.3 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 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 the Complainant's Complaint filed on April 30, 2013. 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, or entity other than the Respondent.

F. Enforcement 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.

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

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

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

LISA BONNETT, Director

BY: Elizabeth Wallace
ELIZABETH WALLACE, Chief
Assistant Attorney General
Environmental Bureau

BY: John J. Kim
JOHN J. KIM, Chief Legal Counsel

DATE: 4/25/13

DATE: 4/23/13

VILLAGE OF ATKINSON

BY: _____

DATE: _____

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

PEOPLE OF THE STATE OF ILLINOIS

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

LISA MADIGAN
Attorney General, State of Illinois

LISA BONNETT, Director

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

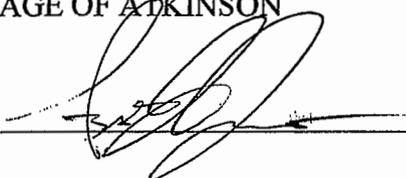
BY: _____
ELIZABETH WALLACE, Chief
Assistant Attorney General
Environmental Bureau

BY: _____
JOHN J. KIM, Chief Legal Counsel

DATE: _____

DATE: _____

VILLAGE OF ATKINSON

BY:  _____

DATE: 4-22-13

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
 by LISA MADIGAN, Attorney)
 General of the State of Illinois,)
)
 Complainant,)
)
 v.)
)
 VILLAGE OF ATKINSON, an Illinois municipal)
 corporation,)
)
 Respondent.)

PCB No.
(Enforcement –Water)

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) (2012), moves that the Illinois Pollution Control Board (“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) (2012). In support of this motion, Complainant states as follows:

1. The Complaint in this matter alleges violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2012).
2. Complainant is filing the Complaint with the Board simultaneous with this Motion and a Stipulation and Proposal for Settlement.
3. The parties have reached agreement on all outstanding issues in this matter.
4. This agreement is presented to the Board in a Stipulation and Proposal for Settlement filed this same date.

5. 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) (2012).

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) (2012).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN
Attorney General, State of Illinois

BY:



Kathryn A. Pamerter
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602
(312) 814-0608

DATE: April 30, 2013

CERTIFICATE OF SERVICE

I, Kathryn A. Pamenter, Assistant Attorney General, certify that on the 30th day of April, 2013, I caused to be served by U.S. Certified Mail (return receipt requested), the foregoing Notice of Filing, Complaint, Stipulation and Proposal for Settlement, and Motion for Relief from Hearing Requirement to the parties named on the Notice of Filing, by depositing same in postage prepaid envelopes with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois 60601.



Kathryn A. Pamenter
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602
(312) 814-0608