

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

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

Complainant, )

v. )

PCB No. 15-  
(Enforcement – Water)

FITNESS INTERNATIONAL, LLC, )  
a California limited liability company, and )  
C.E. GLEESON CONSTRUCTORS, )  
INC., a Michigan corporation, )

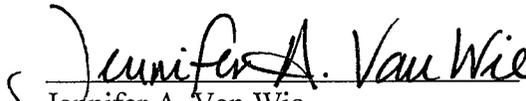
Respondents. )

**NOTICE OF FILING**

To: See attached service list  
(VIA ELECTRONIC FILING)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Pollution Control Board by electronic filing the following Complaint, Stipulation and Proposal for Settlement, and Motion for Relief from Hearing Requirement, copies of which are attached and hereby served upon you.

LISA MADIGAN  
Attorney General  
State of Illinois

  
Jennifer A. Van Wie

Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
69 W. Washington Street, Suite 1800  
Chicago, Illinois 60602  
(312) 814-0609

Dated: January 30, 2015

**THIS FILING IS SUBMITTED ON RECYCLED PAPER**

Service List

For Respondents:

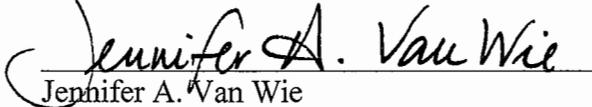
Kevin J. Gleeson  
Sullivan, Ward, Asher & Patton, P.C.  
1000 Maccabees Center  
25800 Northwestern Highway  
Southfield, Michigan 48075-8412  
(via certified U.S. Mail, return receipt requested and electronic mail to [kgleeson@swappc.com](mailto:kgleeson@swappc.com))

For Illinois Environmental Protection Agency:

Roberto Durango  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
(via electronic mail to [Roberto.Durango@Illinois.gov](mailto:Roberto.Durango@Illinois.gov))

**CERTIFICATE OF SERVICE**

I, Jennifer A. Van Wie, an Assistant Attorney General, certify that on the 30<sup>th</sup> day of January 2015, I caused to be served by the methods specified in the Service List, the foregoing Complaint, Stipulation and Proposal for Settlement, Motion for Relief from Hearing Requirement and Notice of Filing to the parties named on the attached Service List.

  
Jennifer A. Van Wie  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
69 W. Washington Street, Suite 1800  
Chicago, Illinois 60602  
(312) 814-0609

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 INC., a Michigan corporation, )  
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 Respondents. )  
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PCB No. 15-  
(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 Sections 12(a), 12(d), and 12(f) of the Act, 415 ILCS 5/12(a), (d), and (f) (2012), Sections 302.203, 309.102(a), and 305.102(b) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 302.203, 309.102(a), and 305.102(b), and Parts III.A. 1 and 4 and IV.D.4.e of NPDES Permit ILR10R307.
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:



Jennifer A. Van Wie  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
69 W. Washington Street, Suite 1800  
Chicago, Illinois 60602  
(312) 814-0609  
jvanwie@atg.state.il.us

DATE: January 30, 2015

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS )  
 by LISA MADIGAN, Attorney )  
 General of the State of Illinois, )  
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 Complainant, )  
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 a California limited liability company, and )  
 C.E. GLEESON CONSTRUCTORS, )  
 INC., a Michigan corporation, )  
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 Respondents. )  
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PCB No. 15-  
(Enforcement – Water)

**COMPLAINT**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondents, FITNESS INTERNATIONAL, LLC, a California limited liability company, and C.E. GLEESON CONSTRUCTORS, INC., a Michigan 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).

2. The Illinois EPA is an administrative agency established in the executive branch of the State government by Section 4 of the Act, 415 ILCS 5/4 (2012), and is charged, *inter alia*, with the duty of enforcing the Act. The Illinois EPA is further charged with the duty to abate

violations of the National Pollutant Discharge Elimination System (“NPDES”) permit program under the Federal Clean Water Act (“CWA”), 33 U.S.C. § 1342(b)(7).

3. At all times relevant to this Complaint, Respondent, FITNESS INTERNATIONAL, LLC (“Fitness International”), was and is a California limited liability company registered to do business in Illinois.

4. Fitness International owns and operates the LA Fitness health club chain (“LA Fitness”).

5. At all times relevant to this Complaint, Respondent, C.E. GLEESON CONSTRUCTORS, INC. (“C.E. Gleeson”), was and is a Michigan corporation registered to do business in Illinois.

6. At all times relevant to this Complaint, CORONET CONSTRUCTION, INC. (“Coronet”) was and is an Illinois corporation in good standing with the Illinois Secretary of State.

7. Fitness International owns a LA Fitness gym located at 265 Army Trail Road, Glendale Heights, DuPage County, Illinois (“Site”).

8. Fitness International sought to demolish the existing LA Fitness center at the Site and construct a new LA Fitness multipurpose sports and fitness club and parking lot totaling 6.7 acres.

9. On March 6, 2013, Fitness International submitted a Notice of Intent for General Permit to Discharge Storm Water Associated with Construction Site Activities (“NOI”) to the Illinois EPA for the construction activities at the Site.

10. On July 30, 2013, Fitness International was granted coverage under general NPDES Permit ILR10R307 (“NPDES Permit”) by the Illinois EPA, attached hereto and

incorporated herein as Attachment 1.

11. Part I.C.3 of the general NPDES permit provides that Fitness International was authorized to begin construction at the Site under the terms and conditions of the general NPDES permit thirty (30) days after the date the NOI was received by the Illinois EPA. See Attachment 1, Part I.C.3.

12. Stormwater from the Site discharges into the East Branch of the DuPage River.

13. On June 18, 2013, an Illinois EPA inspector drove by the Site.

14. Dirt was tracking from the construction Site onto an adjacent property's parking lot, which ultimately drains into the East Branch of the DuPage River through stormwater drainage ways.

15. On June 18, 2013, a representative from C.E. Gleeson, the project superintendent, contacted the Illinois EPA inspector and informed her that C.E. Gleeson personnel were in the process of cleaning up the area, that it would monitor the situation closely, and that it would notify its contractor, Coronet, to maintain compliance at the Site.

16. On June 19, 2013, the Illinois EPA inspector returned to inspect the Site.

17. A storm sewer inlet which leads to the municipal separate storm sewer system ("MS4") was surrounded by pooled water heavy with sediments, which was draining into the MS4 inlet.

18. A portable pump with a hose led to a MS4 inlet at the Site.

19. The MS4 inlet had no erosion control measures around or within it to keep the water and sediments out.

20. On June 20, 2013, a representative of C.E. Gleeson submitted a Construction Site Storm Water Discharge Incidence of Non-Compliance ("ION") report to the Illinois EPA.

21. The ION stated that a contractor had pumped out approximately 50 gallons of groundwater from a pit during excavation at the Site and discharged it through a hose into an inlet leading to the MS4.

22. On August 1, 2013, the Illinois EPA inspector conducted a follow-up inspection of the Site.

23. Erosion control measures had been implemented, including sediment baskets placed within MS4 inlets and burlap placed over the sediment baskets to keep out stones.

24. Sediment baskets placed inside MS4 inlets located at the center and towards the west of the Site were full of sediment and not being properly maintained.

25. An MS4 inlet at the center of the Site contained cloudy, discolored water and sediments.

26. A few of the MS4 inlets at the Site were not protected with any erosion control measures.

27. Silt fencing along the southwest and northwest borders of the Site was not being properly maintained.

28. 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.

29. Section 3.315 of the Act, 415 ILCS 5/3.315 (2012), 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.

30. Respondents FITNESS INTERNATIONAL, LLC and C.E. GLEESON CONSTRUCTORS, INC. are each a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2012).

31. Section 3.165 of the Act, 415 ILCS 5/3.165 (2012), provides the following definition:

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

32. Eroded soil and sediment are each a contaminant as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2012).

33. Section 3.550 of the Act, 415 ILCS 5/3.550 (2012), provides the following definition:

“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.

34. The MS4 and the East Branch of the DuPage River are each “waters” as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2012).

35. Section 3.545 of the Act, 415 ILCS 5/3.545 (2012), provides the following definition:

“Water pollution” is such alteration of the physical, thermal, chemical, biological or radioactive properties of any waters of the State, or such discharge of any contaminant into any waters of the State, as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

36. Respondents, by discharging eroded soil and sediment-laden groundwater into the MS4 leading to the East Branch of the DuPage River, and by allowing sediment to discharge off-Site onto an adjacent property's parking lot which drains into the East Branch of the DuPage River through stormwater drainage ways, threatened to alter the physical, thermal, chemical, biological or radioactive properties of those waters; rendered, or was likely to render those waters harmful or detrimental or injurious to wild animals, birds, fish and other aquatic life; or created, or was likely to create, a nuisance, and, therefore, constituted "water pollution" as defined in Section 3.545 of the Act, 415 ILCS 5/3.545 (2012).

37. Respondents, by allowing a contaminant to enter waters of the State, thereby caused, threatened, or allowed water pollution in violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2012).

WHEREFORE, the Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Pollution Control Board enter an order against the Respondents, FITNESS INTERNATIONAL, LLC and C.E. GLEESON CONSTRUCTORS, INC., with respect to Count I:

1. Authorizing a hearing in this matter at which time the Respondents will be required to answer the allegations contained herein;
2. Finding that Respondents have violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2012);
3. Ordering the Respondents to cease and desist from future violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2012);
4. Assessing a civil penalty, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2012), of Fifty Thousand Dollars (\$50,000.00) against the Respondents for each violation of the

Act, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Taxing all costs of this action to the Respondents 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.

**COUNT II**  
**WATER POLLUTION HAZARD**

1-27. Complainant realleges and incorporates by reference herein paragraphs 1 through 27 of Count I as paragraphs 1 through 27 of this Count II.

28. Section 12(d) of the Act, 415 ILCS 5/12(d) (2012), 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.

29-36. Complainant realleges and incorporates by reference herein paragraphs 29 through 36 of Count I as paragraphs 29 through 36 of this Count II.

37. Respondents, by failing to implement and maintain erosion control measures at the Site deposited eroded soil and sediment in such a place and manner so as to cause on-site discharges into the MS4 inlets and off-site discharges into an adjacent parking lot which ultimately drains into the East Branch of the DuPage River through stormwater drainage ways, thereby creating a water pollution hazard in violation of Section 12(d) of the Act, 415 ILCS 5/12(d) (2012).

WHEREFORE, the Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Pollution Control Board enter an order against the Respondents, FITNESS

INTERNATIONAL, LLC and C.E. GLEESON CONSTRUCTORS, INC., with respect to Count II:

1. Authorizing a hearing in this matter at which time the Respondents will be required to answer the allegations contained herein;
2. Finding that Respondents have violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2012);
3. Ordering the Respondents to cease and desist from future violations of Section 12(d) of the Act, 415 ILCS 5/12(d) (2012);
4. Assessing a civil penalty, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2012), of Fifty Thousand Dollars (\$50,000.00) against the Respondents for each violation of the Act, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
5. Taxing all costs of this action to the Respondents 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.

**COUNT III**  
**CAUSING OFFENSIVE CONDITIONS**

1-36. Complainant realleges and incorporates by reference herein paragraphs 1 through 36 of Count I as paragraphs 1 through 36 of this Count III.

37. Pursuant to the authority granted in Sections 13 and 27 of the Act, 415 ILCS 5/13 and 27 (2012), the Illinois Pollution Control Board (“Board”) has promulgated rules and regulations to control water pollution in Illinois, codified at 35 Ill. Adm. Code, Subtitle C, Chapter 1 (“Board Water Pollution Regulations”).

38. 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. The allowed mixing provisions of Section 302.102 shall not be used to comply with the provisions of this Section.

39. By allowing sediment-laden groundwater pumped from an excavation to pool around and drain into an MS4 inlet and by failing to erect and maintain erosion controls around MS4 inlets such that eroded soil and sediments entered into the water in the MS4 inlets, the Respondents caused discoloration and turbidity of other than natural origin in the water within the MS4, a water of the State.

40. By causing discoloration and turbidity of other than natural origin in a water of the State, the Respondents violated of Section 302.203 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 302.203.

41. By violating Section 302.203 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 302.203, Respondents thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2012).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Pollution Control Board enter an order against the Respondents, FITNESS INTERNATIONAL, LLC and C.E. GLEESON CONSTRUCTORS, INC., with respect to Count III:

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

2. Finding that Respondents have violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2012), and Section 302.203 of the Board Water Pollution regulations, 35 Ill. Adm. Code 302.203;

3. Ordering the Respondents to cease and desist from future violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2012), and Section 302.203 of the Board Water Pollution regulations, 35 Ill. Adm. Code 302.203;

4. Assessing a civil penalty, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2012), of Fifty Thousand Dollars (\$50,000.00) against the Respondents for each violation of the Act and pertinent regulations, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of each violation;

5. Taxing all costs of this action to the Respondents 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.

**COUNT IV  
AS TO RESPONDENT FITNESS INTERNATIONAL ONLY**

**FAILURE TO COMPLY WITH THE TERMS AND CONDITIONS OF A NATIONAL  
POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT**

1-25. Complainant realleges and incorporates by reference herein paragraphs 1 through 4 and 7 through 27 of Count I as paragraphs 1 through 25 of this Count IV.

26. Section 12(f) of the Act, 415 ILCS 5/12(f) (2008), provides 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.

27-32. Complainant realleges and incorporates by reference herein paragraphs 29 through 34 of Count I as paragraphs 27 through 32 of this Count IV.

33. Complainant realleges and incorporates by reference herein paragraph 37 of Count III as paragraph 31 of this Count IV.

34. 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.

35. 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.)

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

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.

37. The MS4 inlets leading into the East Branch of the DuPage River and the hose used to pump excavated groundwater into a MS4 inlet, are each a discernible, confined and discrete conveyance, and therefore each constitutes a "point source" as that term is defined in Section 1362 of the CWA, 33 U.S.C.A. § 1362(14).

38. Part III.A. 1 and 4 of the NPDES Permit provides as follows:

Part III. Special Conditions, Management Practices, and other Non-Numeric Limitations

A. Prohibition on Non-Storm Water Discharges.

1. Except as provided in Part I paragraph B.2 and paragraphs 2, 3 or 4 below, all discharges covered by this permit shall be comprised entirely of storm water.

\* \* \*

4. Discharges from dewatering activities, including discharges from dewatering of trenches and excavations, are allowable if managed by appropriate controls.

39. Fitness International, by pumping sediment-laden groundwater from an excavation into an MS4 inlet and by allowing the MS4 inlets at the Site to remain unprotected from eroded soil and sediment, thereby caused, threatened and allowed the discharge of a contaminant into the waters of the State from a point source within the State in violation of the terms and conditions imposed by the NPDES Permit.

40. By discharging a contaminant into waters of the State in violation of the terms and conditions of its NPDES Permit, Fitness International thereby violated Section 12(f) of the Act,

415 ILCS 5/12(f) (2012), 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 Pollution Control Board enter an order against Respondent, FITNESS INTERNATIONAL, LLC, with respect to Count IV:

1. Authorizing a hearing in this matter at which time the Respondent Fitness International will be required to answer the allegations contained herein;
2. Finding that Respondent Fitness International has violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2012), Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a), and Part III.A. 1 and 4 of the NPDES Permit;
3. Ordering Respondent Fitness International to cease and desist from any further violations of Section 12(f) of the Act, 415 ILCS 5/12(f) (2012), Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a), and Part III.A. 1 and 4 of the NPDES Permit;
4. Assessing a civil penalty against Respondent Fitness International, pursuant to Section 42(b) of the Act, 415 ILCS 5/42(b) (2012), of Ten Thousand Dollars (\$10,000.00) against the Defendants for each day during which each violation of Section 12(f) of the Act and any NPDES program-related regulation of the Board continued;
5. Taxing all costs of this action to the Respondent Fitness International 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.

**COUNT V  
AS TO RESPONDENT FITNESS INTERNATIONAL ONLY**

**VIOLATION OF NPDES PERMIT REPORTING REQUIREMENTS**

1-35. Complainant realleges and incorporates by reference herein paragraphs 1 through 33 and paragraphs 36 and 37 of Count IV as paragraphs 1 through 35 of this Count V.

36. Section 305.102(b) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 305.102(b), provides as follows:

Reporting Requirements

\* \* \*

b) Every holder of an NPDES (National Pollutant Discharge Elimination System) permit is required to comply with the monitoring, sampling, recording and reporting requirements set forth in the permit and this Chapter.

37. Part IV.D.4.e of the NPDES Permit provides, in pertinent part, as follows:

Part IV. Storm Water Pollution Prevention Plans

D. Contents of Plan

4. Inspections

e. The permittee shall notify the appropriate Agency Field Operations Section office . . . within 24 hours of any incidence of noncompliance for any violation of the storm water pollution prevention plan observed during any inspection conducted, or for violations of any conditions of this permit. The permittee shall complete and submit within 5 days an "Incidence of Noncompliance" (ION) report for any violation of the storm water pollution prevention plan observed during any inspection conducted, or for violations of any condition of this permit . . .

38. Respondent Fitness International failed to submit an ION report for the violations noted during the August 1, 2013 Illinois EPA inspection, such as failure to erect and maintain erosion controls and discharge of eroded soil and sediment into MS4 inlets.

39. By failing to submit an ION report for the August 1, 2013 alleged violations, Respondent Fitness International thereby violated Section 305.102(b) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 305.102(b), and Part IV.D.4.e of the NPDES Permit.

40. By violating Section 305.102(b) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 305.102(b), and Part IV.D.4.e of the NPDES Permit, Respondent Fitness International thereby violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2012).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Pollution Control Board enter an order against Respondent, FITNESS INTERNATIONAL, LLC, with respect to Count V:

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

2. Finding that Respondent Fitness International has violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2012), Section 305.102(b) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 305.102(b), and Part IV.D.4.e of the NPDES Permit;

3. Ordering Respondent Fitness International to cease and desist from any further violations of Section 12(f) of the Act, 415 ILCS 5/12(f) (2012), Section 305.102(b) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 305.102(b), and Part IV.D.4.e of the NPDES Permit;

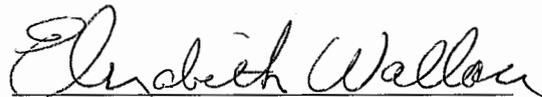
4. Assessing a civil penalty, pursuant to Section 42(b) of the Act, 415 ILCS 5/42(b) (2012), of Ten Thousand Dollars (\$10,000.00) against Respondent Fitness International for each

day during which each violation of Section 12(f) of the Act and any NPDES program-related regulation of the Board continued;

5. Taxing all costs of this action to Respondent Fitness International 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,  
ex rel. 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:  
JENNIFER A. VAN WIE  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
69 W. Washington Street, Suite 1800  
Chicago, Illinois 60602  
(312) 814-0609

NPDES Permit No. ILR10

**General NPDES Permit No. ILR10**

Illinois Environmental Protection Agency  
Division of Water Pollution Control  
1021 North Grand Avenue East  
Post Office Box 19276  
Springfield, Illinois 62794-9276  
[www.epa.state.il.us](http://www.epa.state.il.us)

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM**

**General NPDES Permit  
For  
Storm Water Discharges From Construction Site Activities**

Expiration Date: July 31, 2018

Issue Date: July 30, 2013

Effective Date: August 1, 2013

In compliance with the provisions of the Illinois Environmental Protection Act, the Illinois Pollution Control Board Rules and Regulations (35 Ill. Adm. Code, Subtitle C, Chapter I), and the Clean Water Act, and the regulations thereunder the following discharges are authorized by this permit in accordance with the conditions and attachments herein.



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

**Part I. COVERAGE UNDER THIS PERMIT**

A. **Permit Area.** The permit covers all areas of the State of Illinois with discharges to any waters of the State.

B. **Eligibility.**

1. This permit shall authorize all discharges of storm water associated with industrial activity from a construction site that will result in the disturbance of one or more acres total land area or a construction site less than one acre of total land that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb one or more acres total land area. This permit may authorize discharges from other construction site activities that have been designated by the Agency as having the potential to adversely affect the water quality of waters of the state. This permit also authorizes discharges from construction sites previously approved by the Agency under the previous version of ILR10 that are still occurring after the effective date of this permit, except for discharges identified under Part I.B.3 (Limitations on Coverage). Where discharges from construction sites were initially covered under the previous version of the ILR10, the Storm Water Pollution Prevention Plan must be updated/revised as necessary to ensure compliance with the provisions of this reissued ILR10 permit in accordance with Part II.A.2.
2. This permit may only authorize a storm water discharge associated with industrial activity from a construction site that is mixed with a storm water discharge from an industrial source other than construction, where:
  - a. the industrial source other than construction is located on the same site as the construction activity;
  - b. storm water discharges associated with industrial activity from the areas of the site where construction activities are occurring are in compliance with the terms of this permit; and
  - c. storm water discharges associated with industrial activity from the areas of the site where industrial activities other than construction are occurring (including storm water discharges from dedicated asphalt plants and dedicated concrete plants) are covered by a different NPDES general permit or an individual permit authorizing such discharges.
3. **Limitations on Coverage.** The following storm water discharges from construction sites are not authorized by this permit:
  - a. storm water discharges associated with industrial activities that originate from the site after construction activities have been completed and the site has undergone final stabilization;
  - b. discharges that are mixed with sources of non-storm water other than discharges identified in Part III.A (Prohibition on Non-Storm Water Discharges) of this permit and in compliance with paragraph IV.D.5 (Non-Storm Water Discharges) of this permit;

- c. storm water discharges associated with industrial activity that are subject to an existing NPDES individual or general permit or which are issued a permit in accordance with Part VI.N (Requiring an Individual Permit or an Alternative General Permit) of this permit. Such discharges may be authorized under this permit after an existing permit expires provided the existing permit did not establish numeric limitations for such discharges;
- d. storm water discharges from construction sites that the Agency has determined to be or may reasonably be expected to be contributing to a violation of a water quality standard; and
- e. storm water discharges that the Agency, at its discretion, determines are not appropriately authorized or controlled by this general permit.
- f. storm water discharges to any receiving water specified under 35 Ill. Adm. Code 302.105(d) (6).

**C. Authorization.**

1. In order for storm water discharges from construction sites to be authorized to discharge under this general permit a discharger must submit a Notice of Intent (NOI) in accordance with the requirements of Part II below, using an NOI form provided by the Agency.
2. Where a new contractor is selected after the submittal of an NOI under Part II below, or where site ownership is transferred, a new Notice of Intent (NOI) must be submitted by the owner in accordance with Part II.
3. Unless notified by the Agency to the contrary, dischargers who submit an NOI in accordance with the requirements of this permit are authorized to discharge storm water from construction sites under the terms and conditions of this permit in 30 days after the date the NOI is received by the Agency.
4. The Agency may deny coverage under this permit and require submittal of an application for an individual NPDES permit based on a review of the NOI or other information.

**Part II. NOTICE OF INTENT REQUIREMENTS**

**A. Deadlines for Notification.**

1. To receive authorization under this general permit, a discharger must submit a completed Notice of Intent (NOI) in accordance with Part VI.G (Signatory Requirements) and the requirements of this Part in sufficient time to allow a 30 day review period after the receipt of the NOI by the Agency and prior to the start of construction. The completed NOI may be submitted electronically to the following email address: [epa.constilr10swppp@illinois.gov](mailto:epa.constilr10swppp@illinois.gov)
2. Discharges that were covered by the previous version of ILR10 are automatically covered by this permit. Where discharges associated with construction activities were initially covered under the previous version of ILR10 and are continuing, the Storm Water Pollution Prevention Plan must be updated/revised within 12 months of the effective date of this reissued permit, as necessary to ensure compliance with the provisions of the reissued ILR10. Updating of the SWPPP is not required if construction activities are completed and a Notice of Termination is submitted within 12 months of the effective date of this permit.
3. A discharger may submit an NOI in accordance with the requirements of this Part after the start of construction. In such instances, the Agency may bring an enforcement action for any discharges of storm water associated with industrial activity from a construction site that have occurred on or after the start of construction.

**B. Failure to Notify.** Dischargers who fail to notify the Agency of their intent to be covered, and discharge storm water associated with construction site activity to Waters of the State without an NPDES permit are in violation of the Environmental Protection Act and Clean Water Act.

**C. Contents of Notice of Intent.** The Notice of Intent shall be signed in accordance with Part VI.G (Signatory Requirements) of this permit by all of the entities identified in paragraph 2 below and shall include the following information:

1. The mailing address, and location of the construction site for which the notification is submitted. Where a mailing address for the site is not available, the location can be described in terms of the latitude and longitude of the approximate center of the facility to the nearest 15 seconds, or the nearest quarter section (if the section, township and range is provided) that the construction site is located in;
2. The owner's name, address, telephone number, and status as Federal, State, private, public or other entity;
3. The name, address and telephone number of the general contractor(s) that have been identified at the time of the NOI submittal;
4. The name of the receiving water(s), or if the discharge is through a municipal separate storm sewer, the name of the municipal operator of the storm sewer and the ultimate receiving water(s);
5. The number of any NPDES permits for any discharge (including non-storm water discharges) from the site that is currently authorized by an NPDES permit;
6. A description of the project, detailing the complete scope of the project, estimated timetable for major activities and an estimate of the number of acres of the site on which soil will be disturbed;
7. For projects that have complied with State law on historic preservation and endangered species prior to submittal of the NOI, through coordination with the Illinois Historic Preservation Agency and the Illinois Department of Natural Resources or through fulfillment of the terms of interagency agreements with those agencies, the NOI shall indicate that such compliance has occurred.
8. An electronic copy of the storm water pollution prevention plan that has been prepared for the site in accordance with Part IV of this permit. The electronic copy shall be submitted to the Agency at the following email address: [epa.constilr10swppp@illinois.gov](mailto:epa.constilr10swppp@illinois.gov)

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9. Revised notice of intents shall be submitted for any substantial modifications to the project such as: address changes, new contractors, area coverage, additional discharges to waters of the state, or other substantial modifications.

**D. Where to Submit.**

Construction activities which discharge storm water that requires a NPDES permit must use an NOI form provided by the Agency. The applicable fee shall also be submitted. NOIs must be signed in accordance with Part VI.G (Signatory Requirements) of this permit. The NOI form may be submitted to the Agency in any of the following methods:

1. File electronically with digital signature at the following website address:  
<http://dataservices.epa.illinois.gov/SWConstructionPermit/bowLogin.aspx>

Registration specific to the permittee is required in order to file electronically.

2. Submit complete NOI and SWPPP electronically to the following email address: [epa.constilr10swppp@illinois.gov](mailto:epa.constilr10swppp@illinois.gov). Submit the NOI with original signature and fee by certified mail to the Agency at the following address:

Illinois Environmental Protection Agency  
Division of Water Pollution Control, Mail Code #15  
Attention: Permit Section  
1021 North Grand Avenue East  
Post Office Box 19276  
Springfield, Illinois 62794-9276

- E. **Additional Notification.** Construction activities that are operating under approved local sediment and erosion plans, land disturbance permits, grading plans, or storm water management plans, in addition to filing copies of the Notice of Intent in accordance with Part D above, shall also submit signed copies of the Notice of Intent to the local agency approving such plans in accordance with the deadlines in Part A above. See Part IV.D.2.d (Approved State or Local Plans). A copy of the NOI shall be sent to the entity holding an active General NPDES Permit No. ILR40 if the permittee is located in an area covered by an active ILR40 permit.
- F. **Notice of Termination.** Where a site has completed final stabilization and all storm water discharges from construction activities that are authorized by this permit are eliminated, the permittee must submit a completed Notice of Termination that is signed in accordance with Part VI.G (Signatory Requirements) of this permit.

1. The Notice of Termination shall include the following information:

- a. The mailing address, and location of the construction site for which the notification is submitted. Where a mailing address for the site is not available, the location can be described in terms of the latitude and longitude of the approximate center of the facility to the nearest 15 seconds, or the nearest quarter section (if the section, township and range is provided) that the construction site is located in;
- b. The owner's name, address, telephone number, and status as Federal, State, private, public or other entity;
- c. The name, address and telephone number of the general contractor(s);
- d. The date when construction was completed and the site was stabilized; and
- e. The following certification signed in accordance with Part VI.G (Signatory Requirements) of this permit:

"I certify under penalty of law that all storm water discharges associated with construction site activity from the identified facility that are authorized by NPDES general permit ILR10 have otherwise been eliminated. I understand that by submitting this notice of termination, that I am no longer authorized to discharge storm water associated with construction site activity by the general permit, and that discharging pollutants in storm water associated with construction site activity to Waters of the State is unlawful under the Environmental Protection Act and Clean Water Act where the discharge is not authorized by a NPDES permit. I also understand that the submittal of this notice of termination does not release an operator from liability for any violations of this permit or the Clean Water Act."

For the purposes of this certification, elimination of storm water discharges associated with industrial activity means that all disturbed soils at the identified facility have been finally stabilized and temporary erosion and sediment control measures have been removed or will be removed at an appropriate time, or that all storm water discharges associated with construction activities from the identified site that are authorized by a NPDES general permit have otherwise been eliminated.

2. All Notices of Termination are to be sent to the Agency to the mailing address in Part II.D.1, using the form provided by the Agency, or electronically if the permittee submitted a Notice of Intent by electronic means.

**Part III. SPECIAL CONDITIONS, MANAGEMENT PRACTICES, AND OTHER NON-NUMERIC LIMITATIONS**

**A. Prohibition on Non-Storm Water Discharges.**

1. Except as provided in Part I paragraph B.2 and paragraphs 2, 3 or 4, below, all discharges covered by this permit shall be comprised entirely of storm water.
2. a. Except as provided in paragraph b below, discharges of materials other than storm water must be in compliance with a NPDES permit (other than this permit) issued for the discharge.

- b. The following non-storm water discharges may be authorized by this permit provided the non-storm water component of the discharges is in compliance with Part IV.D.5 (Non-Storm Water Discharges): discharges from fire fighting activities; fire hydrant flushings; waters used to wash vehicles where detergents are not used; waters used to control dust; potable water sources including uncontaminated waterline flushings; landscape irrigation drainages; routine external building washdown which does not use detergents; pavement wash waters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used; uncontaminated air conditioning condensate; springs; uncontaminated ground water; and foundation or footing drains where flows are not contaminated with process materials such as solvents.
3. The following non-storm water discharges are prohibited by this permit: concrete and wastewater from washout of concrete (unless managed by an appropriate control), drywall compound, wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds and other construction materials, fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance, soaps, solvents, or detergents, toxic or hazardous substances from a spill or other release, or any other pollutant that could cause or tend to cause water pollution.
4. Discharges from dewatering activities, including discharges from dewatering of trenches and excavations, are allowable if managed by appropriate controls.

**B. Discharges into Receiving Waters With an Approved Total Maximum Daily Load (TMDL):**

Discharges to waters for which there is a TMDL allocation for sediment or a parameter that addresses sediment (such as total suspended solids, turbidity, or siltation) are not eligible for coverage under this permit unless the owner/operator develops and certifies a SWPPP that is consistent with wasteload allocations in the approved TMDL. To be eligible for coverage under this general permit, operators must incorporate into their SWPPP any conditions and/or Best Management Practices applicable to their discharges necessary for consistency with the TMDL within any timeframes established in the TMDL. If a specific numeric waste load allocation has been established that would apply to the project's discharges, the operator must incorporate that allocation into its SWPPP and implement necessary steps to meet that allocation.

Please refer to the Agency website at: <http://www.epa.state.il.us/water/tmdl/report-status.html>

- C. Discharges covered by this permit, alone or in combination with other sources, shall not cause or contribute to a violation of any applicable water quality standard.

**Part IV. STORM WATER POLLUTION PREVENTION PLANS**

A storm water pollution prevention plan shall be developed for each construction site covered by this permit. Storm water pollution prevention plans shall be prepared in accordance with good engineering practices. The plan shall identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges associated with construction site activity from the facility. In addition, the plan shall describe and ensure the implementation of best management practices which will be used to reduce the pollutants in storm water discharges associated with construction site activity and to assure compliance with the terms and conditions of this permit. The permittee must implement the provisions of the storm water pollution prevention plan required under this part as a condition of this permit.

**A. Deadlines for Plan Preparation and Compliance.**

The plan shall:

1. Be completed prior to the start of the construction activities to be covered under this permit and submitted electronically to the Agency at the time the Notice of Intent is submitted; and
2. Provide for compliance with the terms and schedules of the plan beginning with the initiation of construction activities.

**B. Signature, Plan Review and Notification.**

1. The plan shall be signed in accordance with Part VI.G (Signatory Requirements), and be retained at the construction site which generates the storm water discharge in accordance with Part VI.E (Duty to Provide Information) of this permit.
2. Prior to commencement of construction, the permittee shall provide the plan to the Agency.
3. The permittee shall make plans available upon request from this Agency or a local agency approving sediment and erosion plans, grading plans, or storm water management plans; or in the case of a storm water discharge associated with industrial activity which discharges through a municipal separate storm sewer system. A list of permitted municipal separate storm sewer systems is available at: <http://www.epa.state.il.us/water/permits/storm-water/ms4-status-report.pdf>
4. The Agency may notify the permittee at any time that the plan does not meet one or more of the minimum requirements of this Part. Such notification shall identify those provisions of the permit which are not being met by the plan, and identify which provisions of the plan require modifications in order to meet the minimum requirements of this part. Within 7 days from receipt of notification from the Agency, the permittee shall make the required changes to the plan and shall submit to the Agency a written certification that the requested changes have been made. Failure to comply shall terminate authorization under this permit.
5. A copy of the letter of notification of coverage along with the General NPDES Permit for Storm Water Discharges from Construction Site Activities or other indication that storm water discharges from the site are covered under an NPDES permit shall be posted at the site in a prominent place for public viewing (such as alongside a building permit).
6. All storm water pollution prevention plans and all completed inspection forms/reports required under this permit are considered reports that shall be available to the public at any reasonable time upon request. However, the permittee may claim any portion of a storm water pollution prevention plan as confidential in accordance with 40 CFR Part 2.

- C. **Keeping Plans Current.** The permittee shall amend the plan whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to Waters of the State and which has not otherwise been addressed in the plan or if the

storm water pollution prevention plan proves to be ineffective in eliminating or significantly minimizing pollutants from sources identified under paragraph D.2 below, or in otherwise achieving the general objectives of controlling pollutants in storm water discharges associated with construction site activity. In addition, the plan shall be amended to identify any new contractor and/or subcontractor that will implement a measure of the storm water pollution prevention plan. Amendments to the plan may be reviewed by the Agency in the same manner as Part IV.B above. Any revisions of the documents for the storm water pollution prevention plan shall be kept on site at all times.

D. **Contents of Plan.** The storm water pollution prevention plan shall include the following items:

1. **Site Description.** Each plan shall provide a description of the following:

- a. A description of the nature of the construction activity or demolition work;
- b. A description of the intended sequence of major activities which disturb soils for major portions of the site (e.g. clearing, grubbing, excavation, grading, on-site or off-site stockpiling of soils, on-site or off-site storage of materials);
- c. An estimate of the total area of the site and the total area of the site that is expected to be disturbed by clearing, grubbing, excavation, grading, on-site or off-site stockpiling of soils and storage of materials, or other activities;
- d. An estimate of the runoff coefficient of the site after construction activities are completed and existing data describing the soil or the quality of any discharge from the site;
- e. A site map indicating drainage patterns and approximate slopes anticipated before and after major grading activities, locations where vehicles enter or exit the site and controls to prevent offsite sediment tracking, areas of soil disturbance, the location of major structural and nonstructural controls identified in the plan, the location of areas where stabilization practices are expected to occur, locations of on-site or off-site soil stockpiling or material storage, surface waters (including wetlands), and locations where storm water is discharged to a surface water; and
- f. The name of the receiving water(s) and the ultimate receiving water(s), and areal extent of wetland acreage at the site.

2. **Controls.** Each plan shall include a description of appropriate controls that will be implemented at the construction site and any off-site stockpile or storage area. The Illinois Urban Manual [www.aiswcd.org/IUM](http://www.aiswcd.org/IUM) or other similar documents shall be used for developing the appropriate management practices, controls or revisions of the plan. The plan will clearly describe for each major activity identified in paragraph D.1 above, appropriate controls and the timing during the construction process that the controls will be implemented. For example, perimeter controls for one portion of the site will be installed after the clearing and grubbing necessary for installation of the measure, but before the clearing and grubbing for the remaining portions of the site. Perimeter controls will be actively maintained and/or repaired until final stabilization of those portions of the site upward of the perimeter control. Temporary perimeter controls will be removed after final stabilization. The description of controls shall address as appropriate the following minimum components:

- a. **Erosion and Sediment Controls.** The permittee shall design, install and maintain effective erosion controls and sediment controls to minimize the discharge of pollutants. At a minimum, such controls must be designed, installed and maintained to:
  - (i) Control storm water volume and velocity within the site to minimize soil erosion;
  - (ii) Control storm water discharges, including both peak flowrates and total storm water volume, to minimize erosion at outlets and to minimize downstream channel and streambank erosion;
  - (iii) Minimize the amount of soil exposed during construction activity;
  - (iv) Minimize the disturbance of steep slopes;
  - (v) Minimize sediment discharges from the site. The design, installation and maintenance of erosion and sediment controls must address factors such as the amount, frequency, intensity and duration of precipitation, the nature of resulting storm water runoff, and soil characteristics, including the range of soil particle sizes expected to be present on the site;
  - (vi) Provide and maintain natural buffers around surface waters, direct storm water to vegetated areas to increase sediment removal and maximize storm water infiltration, unless infeasible; and
  - (vii) Minimize soil compaction and, unless infeasible, preserve topsoil.
- b. **Stabilization Practices.** The storm water pollution prevention plan shall include a description of interim and permanent stabilization practices, including site-specific scheduling of the implementation of the practices. Site plans should ensure that existing vegetation is preserved where practicable and that disturbed portions of the site are stabilized. Stabilization practices may include: temporarily seeding, permanent seeding, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of trees, preservation of mature vegetation, staged or staggered development, and other appropriate measures. A record of the dates when major grading activities occur, when construction activities temporarily or permanently cease on a portion of the site, and when stabilization measures are initiated, shall be included in the plan. Stabilization of disturbed areas must, at a minimum, be initiated immediately whenever any clearing, grading, excavating or other earth disturbing activities have permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 calendar days. Stabilization of disturbed areas must be initiated within 1 working day of permanent or temporary cessation of earth disturbing activities and shall be completed as soon as possible but not later than 14 days from the initiation of stabilization work in an area. Exceptions to these time frames are specified as provided in paragraphs (i) and (ii) below:
  - (i) Where the initiation of stabilization measures is precluded by snow cover, stabilization measures shall be initiated as soon as practicable.
  - (ii) On areas where construction activity has temporarily ceased and will resume after 14 days, a temporary stabilization method can be used. Temporary stabilization techniques and materials shall be described in the SWPPP.
- c. **Structural Practices.** A description of structural practices utilized to divert flows from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from exposed areas of the site. Such practices may include silt fences, earth dikes, drainage swales, sediment traps, check dams, subsurface drains, pipe slope drains, level spreaders, storm drain inlet protection, rock outlet protection, reinforced soil retaining systems, gabions, and temporary or permanent sediment basins. Structural practices should be placed on upland soils to the degree practicable. The installation of these devices may be subject to Section 404 of the CWA.

- (i) The following design requirements apply to sediment basins if such structural practices will be installed to reduce sediment concentrations in storm water discharges:
- When discharging from the sediment basin, utilize outlet structures that withdraw water from the surface in order to minimize the discharge.
  - Prevent erosion of the sediment basin using stabilization controls (e.g., erosion control blankets), at the inlet and outlet using erosion controls and velocity dissipation devices:
  - Sediment basins shall be designed to facilitate maintenance, including sediment removal from the basins, as necessary.
- d. **Use of Treatment Chemicals.** Identify the use of all polymer flocculants or treatment chemicals at the site. Dosage of treatment chemicals shall be identified along with any information from any Material Safety Data Sheet. Describe the location of all storage area for chemicals. Include any information from the manufacturer's specifications. Treatment chemicals must be stored in areas where they will not be exposed to precipitation. The SWPPP must describe procedures for use of treatment chemicals and staff responsible for use/application of treatment chemicals must be trained on the established procedures.
- e. **Best Management Practices for Impaired Waters.** For any site which discharges directly to an impaired water identified on the Agency's website for 303(d) listing for suspended solids, turbidity, or siltation the storm water pollution prevention plan shall be designed for a storm event equal to or greater than a 25-year 24-hour rainfall event. If required by federal regulations or the Illinois Urban Manual, the storm water pollution prevention plan shall adhere to a more restrictive design criteria. Please refer to the Agency's website at (<http://www.epa.state.il.us/water/tmdl/303d-list.html>)
- f. **Pollution Prevention.** The permittee shall design, install, implement, and maintain effective pollution prevention measures to minimize the discharge of pollutants. At a minimum, such measures must be designed, installed, implemented and maintained to:
- Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge;
  - Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the site to precipitation and to storm water; and
  - Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.
- g. **Other Controls.**
- Waste Disposal. No solid materials, including building materials, shall be discharged to Waters of the State, except as authorized by a Section 404 permit.
  - The plan shall ensure and demonstrate compliance with applicable State and/or local waste disposal, sanitary sewer or septic system regulations.
  - For construction sites that receive concrete or asphalt from off-site locations, the plan must identify and include appropriate controls and measures to reduce or eliminate discharges from these activities.
  - The plan shall include spill response procedures and provisions for reporting if there are releases in excess of reportable quantities.
- h. **Best Management Practices for Post-Construction Storm Water Management.** Describe the measures that will be installed during the construction process to control pollutants in storm water discharges that will occur after construction operations have been completed. Structural measures should be placed on upland soils to the degree attainable. The installation of these devices may be subject to Section 404 of the CWA. This permit only addresses the installation of storm water management measures, and not the ultimate operation and maintenance of such structures after the construction activities have been completed and the site has undergone final stabilization. Permittees are responsible for only the installation and maintenance of storm water management measures prior to final stabilization of the site, and are not responsible for maintenance after storm water discharges associated with industrial activity have been eliminated from the site.
- The storm water pollution prevention plan and design and construction plans shall explicitly consider post-construction storm water management. Such practices may include: storm water detention structures (including wet ponds); storm water retention structures; flow attenuation by use of open vegetated swales and natural depressions; infiltration of runoff onsite; and sequential systems (which combine several practices). The Permittee must plan for and put in place storm water BMPs to retain the greatest amount of post-development storm water runoff practicable given the site and project constraints by installing one or more of the Best Management Practices (BMPs) as described in the Illinois Urban Manual.  
  
The storm water pollution prevention plan shall include an explanation of the technical basis used to select the practices to control pollution where post-construction flows will exceed predevelopment levels.
  - Velocity dissipation devices shall be placed at discharge locations and along the length of any outfall channel as necessary to provide a non-erosive velocity flow from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected (e.g. maintenance of hydrologic conditions, such as the hydroperiod and hydrodynamics present prior to the initiation of construction activities).
  - Unless otherwise specified in the Illinois Urban Manual (2012), the storm water pollution prevention plan shall be designed for a storm event equal to or greater than a 25-year 24-hour rainfall event.
- i. **Approved State or Local Plans.**
- The management practices, controls and other provisions contained in the storm water pollution prevention plan must be at least as protective as the requirements contained in the Illinois Urban Manual, 2012. Construction activities which discharge storm water must include in their storm water pollution prevention plan procedures and requirements specified in applicable sediment and erosion control plans or storm water management plans approved by local officials. Requirements specified in sediment and erosion control plans or site permits or storm water management site plans or site permits approved by local officials that are applicable to protecting surface water resources are, upon submittal of an NOI to be authorized to discharge under this permit, incorporated by reference and are enforceable under this permit. The plans shall include all requirements of this permit and include more stringent standards required by any local

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approval. This provision does not apply to provisions of master plans, comprehensive plans, non-enforceable guidelines or technical guidance documents that are not identified in a specific plan or permit that is issued for the construction site.

- (ii) Dischargers seeking alternative permit requirements are not authorized by this permit and shall submit an individual permit application in accordance with 40 CFR 122.26 at the address indicated in Part II.D (Where to Submit) of this permit, along with a description of why requirements in approved local plans or permits should not be applicable as a condition of an NPDES permit.

3. **Maintenance.**

- a. The plan shall include a description of procedures to maintain in good and effective operating conditions, all erosion and sediment control measures and other Best Management Practices, including vegetation and other protective measures identified in the Storm Water Pollution Prevention Plan.
- b. Where a basin has been installed to control sediment during construction activities, the Permittees shall keep the basin(s) in effective operating condition and remove accumulated sediment as necessary.

4. **Inspections.** Qualified personnel (provided by the permittee) shall inspect disturbed areas of the construction site that have not been finally stabilized, structural control measures, and locations where vehicles enter or exit the site at least once every seven calendar days and within 24 hours of the end of a storm or by the end of the following business or work day that is 0.5 inches or greater. Qualified personnel means a person knowledgeable in the principles and practices of erosion and sediment controls measures, such as a licensed Professional Engineer (P.E.), a Certified Professional in Erosion and Sediment Control (CPESC), a Certified Erosion Sediment and Storm Water Inspector (CESSWI) or other knowledgeable person who possesses the skills to assess conditions at the construction site that could impact storm water quality and to assess the effectiveness of any sediment and erosion control measures selected to control the quality of storm water discharges from the construction activities.

- a. Inspections may be reduced to once per month when construction activities have ceased due to frozen conditions. Weekly inspections will recommence when construction activities are conducted, or if there is 0.5" or greater rain event, or a discharge due to snowmelt occurs.
- b. Disturbed areas and areas used for storage of materials that are exposed to precipitation shall be inspected for evidence of, or the potential for, pollutants entering the drainage system. Erosion and sediment control measures identified in the plan shall be observed to ensure that they are operating correctly. Where discharge locations or points are accessible, they shall be inspected to ascertain whether erosion control measures are effective in preventing significant impacts to receiving waters. Locations where vehicles enter or exit the site shall be inspected for evidence of offsite sediment tracking.
- c. Based on the results of the inspection, the description of potential pollutant sources identified in the storm water pollution prevention plan in accordance with Part IV.D.1 (Site Description) of this permit and the pollution prevention control measures identified in the plan in accordance with Part IV.D.2 (Controls) of this permit shall be revised as appropriate as soon as practicable after such inspection to minimize the potential for such discharges. Such modifications shall provide for timely implementation of any changes to the plan and pollution prevention control measures within 7 calendar days following the inspection.
- d. A report summarizing the scope of the inspection, name(s) and qualifications of personnel making the inspection, the date(s) of the inspection, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with paragraph b above shall be made and retained as part of the storm water pollution prevention plan for at least three years from the date that the permit coverage expires or is terminated. All inspection reports shall be retained at the construction site. The report shall be signed in accordance with Part VI.G (Signatory Requirements) of this permit.
- e. The permittee shall notify the appropriate Agency Field Operations Section office by email at: [epa.swnoncomp@illinois.gov](mailto:epa.swnoncomp@illinois.gov), telephone or fax within 24 hours of any incidence of noncompliance for any violation of the storm water pollution prevention plan observed during any inspection conducted, or for violations of any condition of this permit. The permittee shall complete and submit within 5 days an "Incidence of Noncompliance" (ION) report for any violation of the storm water pollution prevention plan observed during any inspection conducted, or for violations of any condition of this permit. Submission shall be on forms provided by the Agency and include specific information on the cause of noncompliance, actions which were taken to prevent any further causes of noncompliance, and a statement detailing any environmental impact which may have resulted from the noncompliance. Corrective actions must be undertaken immediately to address the identified non-compliance issue(s).
- f. All reports of noncompliance shall be signed by a responsible authority as defined in Part VI.G (Signatory Requirements).
- g. After the initial contact has been made with the appropriate Agency Field Operations Section Office, all reports of noncompliance shall be mailed to the Agency at the following address:

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

5. **Non-Storm Water Discharges.** Except for flows from fire fighting activities, sources of non-storm water listed in Part III.A.2 of this permit that are combined with storm water discharges associated with industrial activity must be identified in the plan. The plan shall identify and insure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

E. **Additional requirements for storm water discharges from industrial activities other than construction, including dedicated asphalt plants, and dedicated concrete plants.** This permit may only authorize any storm water discharge associated with industrial activity from a construction site that is mixed with a storm water discharge from an industrial source other than construction, where:

1. The industrial source other than construction is located on the same site as the construction activity;

2. Storm water discharges associated with industrial activity from the areas of the site where construction activities are occurring are in compliance with the terms of this permit; and
3. Storm water discharges associated with industrial activity from the areas of the site where industrial activity other than construction are occurring (including storm water discharges from dedicated asphalt plants [other than asphalt emulsion facilities] and dedicated concrete plants) are in compliance with the terms, including applicable NOI or application requirements, of a different NPDES general permit or individual permit authorizing such discharges.

**F. Contractors.**

1. The storm water pollution prevention plan must clearly identify for each measure identified in the plan, the contractor(s) or subcontractor(s) that will implement the measure. All contractors and subcontractors identified in the plan must sign a copy of the certification statement in paragraph 2 below in accordance with Part VI.G (Signatory Requirements) of this permit. All certifications must be included in the storm water pollution prevention plan except for owners that are acting as contractors.
2. **Certification Statement.** All contractors and subcontractors identified in a storm water pollution prevention plan in accordance with paragraph 1 above shall sign a copy of the following certification statement before conducting any professional service at the site identified in the storm water pollution prevention plan:

"I certify under penalty of law that I understand the terms and conditions of the general National Pollutant Discharge Elimination System (NPDES) permit (ILR10) that authorizes the storm water discharges associated with industrial activity from the construction site identified as part of this certification."

The certification must include the name and title of the person providing the signature in accordance with Part VI.G of this permit: the name, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.

**Part V. RETENTION OF RECORDS**

- A. The permittee shall retain copies of storm water pollution prevention plans and all reports and notices required by this permit, records of all data used to complete the Notice of Intent to be covered by this permit and the Agency Notice of Permit Coverage letter for a period of at least three years from the date that the permit coverage expires or is terminated. This period may be extended by request of the Agency at any time.
- B. The permittee shall retain a copy of the storm water pollution prevention plan and any revisions to said plan required by this permit at the construction site from the date of project initiation to the date of final stabilization.

**Part VI. STANDARD PERMIT CONDITIONS**

- A. **Duty to Comply.** The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Illinois Environmental Protection Act and the CWA and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. Failure to obtain coverage under this permit or an individual permit for storm water releases associated with construction activities is a violation of the Illinois Environmental Protection Act and the CWA.
- B. **Continuation of the Expired General Permit.** This permit expires five years from the date of issuance. An expired general permit continues in force and effect until a new general permit or an individual permit is issued. Only those construction activities authorized to discharge under the expiring general permit are covered by the continued permit.
- C. **Need to halt or reduce activity not a defense.** It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
- D. **Duty to Mitigate.** The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.
- E. **Duty to Provide Information.** The permittee shall furnish within a reasonable time to the Agency or local agency approving sediment and erosion control plans, grading plans, or storm water management plans; or in the case of a storm water discharge associated with industrial activity which discharges through a municipal separate storm sewer system with an NPDES permit, to the municipal operator of the system, any information which is requested to determine compliance with this permit. Upon request, the permittee shall also furnish to the Agency or local agency approving sediment and erosion control plans, grading plans, or storm water management plans; or in the case of a storm water discharge associated with industrial activity which discharges through a municipal separate storm sewer system with an NPDES permit, to the municipal operator of the system, copies of all records required to be kept by this permit.
- F. **Other Information.** When the permittee becomes aware that he or she failed to submit any relevant facts or submitted incorrect information in the Notice of Intent or in any other report to the Agency, he or she shall promptly submit such facts or information.
- G. **Signatory Requirements.** All Notices of Intent, storm water pollution prevention plans, reports, certifications or information either submitted to the Agency or the operator of a large or medium municipal separate storm sewer system, or that this permit requires be maintained by the permittee, shall be signed.
  1. All Notices of Intent shall be signed as follows:
    - a. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (1) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or (2) any person authorized to sign documents that has been assigned or delegated said authority in accordance with corporate procedures;
    - b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or
    - c. For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes (1) the chief executive officer of the agency, or (2) a senior executive officer

## NPDES Permit No. ILR10

having responsibility for the overall operations of a principal geographic unit of the agency.

2. All reports required by the permit and other information requested by the Agency shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
  - a. The authorization is made in writing by a person described above and submitted to the Agency.
  - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of manager, operator, superintendent, or position of equivalent responsibility or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position).
  - c. **Changes to Authorization.** If an authorization under Part I.C (Authorization) is no longer accurate because a different individual or position has responsibility for the overall operation of the construction site, a new authorization satisfying the requirements of Part I.C must be submitted to the Agency prior to or together with any reports, information, or applications to be signed by an authorized representative.
  - d. **Certification.** Any person signing documents under this Part shall make the following certification:
 

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."
- H. **Penalties for Falsification of Reports.** Section 309(c)(4) of the Clean Water Act provides that any person who knowingly makes any false material statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or by both. Section 44(j)(4) and (5) of the Environmental Protection Act provides that any person who knowingly makes any false statement, representation, or certification in an application form, or form pertaining to a NPDES permit commits a Class A misdemeanor, and in addition to any other penalties provided by law is subject to a fine not to exceed \$10,000 for each day of violation.
- I. **Penalties for Falsification of Monitoring Systems.** The CWA provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by fines and imprisonment described in Section 309 of the CWA. The Environmental Protection Act provides that any person who knowingly renders inaccurate any monitoring device or record required in connection with any NPDES permit or with any discharge which is subject to the provisions of subsection (f) of Section 12 of the Act commits a Class A misdemeanor, and in addition to any other penalties provided by law is subject to a fine not to exceed \$10,000 for each day of violation.
- J. **Oil and Hazardous Substance Liability.** Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under section 311 of the CWA.
- K. **Property Rights.** The issuance of this permit does not convey any property rights of any sort, nor any exclusive privileges, nor does it authorize any injury to private property nor any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.
- L. **Severability.** The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall not be affected thereby.
- M. **Transfers.** This permit is not transferable to any person except after notice to the Agency. The Agency may require the discharger to apply for and obtain an individual NPDES permit as stated in Part I.C (Authorization).
- N. **Requiring an Individual Permit or an Alternative General Permit.**
  1. The Agency may require any person authorized by this permit to apply for and/or obtain either an individual NPDES permit or an alternative NPDES general permit. Any interested person may petition the Agency to take action under this paragraph. Where the Agency requires a discharger authorized to discharge under this permit to apply for an individual NPDES permit, the Agency shall notify the discharger in writing that a permit application is required. This notification shall include a brief statement of the reasons for this decision, an application form, a statement setting a deadline for the discharger to file the application, and a statement that on the effective date of the individual NPDES permit or the alternative general permit as it applies to the individual permittee, coverage under this general permit shall automatically terminate. Applications shall be submitted to the Agency indicated in Part II.D (Where to Submit) of this permit. The Agency may grant additional time to submit the application upon request of the applicant. If a discharger fails to submit in a timely manner an individual NPDES permit application as required by the Agency under this paragraph, then the applicability of this permit to the individual NPDES permittee is automatically terminated at the end of the day specified by the Agency for application submittal. The Agency may require an individual NPDES permit based on:
    - a. information received which indicates the receiving water may be of particular biological significance pursuant to 35 Ill. Adm. Code 302.105(d)(6);
    - b. whether the receiving waters are impaired waters for suspended solids, turbidity or siltation as identified by the Agency's 303(d) listing;
    - c. size of construction site, proximity of site to the receiving stream, etc.

The Agency may also require monitoring of any storm water discharge from any site to determine whether an individual permit is required.
  2. Any discharger authorized by this permit may request to be excluded from the coverage of this permit by applying for an individual permit. In such cases, the permittee shall submit an individual application in accordance with the requirements of 40 CFR 122.26(c)(1)(ii), with reasons supporting the request, to the Agency at the address indicated in Part II.D (Where to Submit) of this permit. The request may be granted by issuance of any individual permit or an alternative general permit if the reasons cited by the permittee are adequate to support the request.
  3. When an individual NPDES permit is issued to a discharger otherwise subject to this permit, or the discharger is authorized to discharge under an

alternative NPDES general permit, the applicability of this permit to the individual NPDES permittee is automatically terminated on the effective date of the individual permit or the date of authorization of coverage under the alternative general permit, whichever the case may be. When an individual NPDES permit is denied to a discharger otherwise subject to this permit or the discharger is denied for coverage under an alternative NPDES general permit, the applicability of this permit to the individual NPDES permittee remains in effect, unless otherwise specified by the Agency.

- O. **State/Environmental Laws.** No condition of this permit shall release the permittee from any responsibility or requirements under other environmental statutes or regulations.
- P. **Proper Operation and Maintenance.** The permittee shall at all times properly operate and maintain all construction activities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit and with the requirements of storm water pollution prevention plans. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems, installed by a permittee only when necessary to achieve compliance with the conditions of the permit.
- Q. **Inspection and Entry.** The permittee shall allow the IEPA, or an authorized representative upon presentation of credentials and other documents as may be required by law, to:
1. Enter upon the permittee's premises where a regulated construction activity is located or conducted, or where records must be kept under the conditions of this permit;
  2. Have access to and copy at reasonable times, any records that must be kept under the conditions of this permit;
  3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
  4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.
- R. **Permit Actions.** This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.
- S. **Bypasses and Upsets.** The provisions of 40 CFR Section 122.41(m) & (n) are applicable and are hereby incorporated by reference.

#### Part VII. REOPENER CLAUSE

- A. If there is evidence indicating potential or realized impacts on water quality due to any storm water discharge associated with industrial activity covered by this permit, the discharger may be required to obtain an individual permit or an alternative general permit in accordance with Part I.C (Authorization) of this permit or the permit may be modified to include different limitations and/or requirements.
- B. Permit modification or revocation will be conducted according to provisions of 35 Ill. Adm. Code, Subtitle C, Chapter I and the provisions of 40 CFR 122.62, 122.63, 122.64 and 124.5 and any other applicable public participation procedures.
- C. The Agency will reopen and modify this permit under the following circumstances:
1. the U.S. EPA amends its regulations concerning public participation;
  2. a court of competent jurisdiction binding in the State of Illinois or the 7<sup>th</sup> Circuit Court of Appeals issues an order necessitating a modification of public participation for general permits; or
  3. to incorporate federally required modifications to the substantive requirements of this permit.

#### Part VIII. DEFINITIONS

"Agency" means the Illinois Environmental Protection Agency.

"Best Management Practices" ("BMPs") means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control construction site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

"Commencement of Construction or Demolition Activities" The initial disturbance of soils associated with clearing, grading, or excavating activities or other construction or demolition activities.

"Construction Activities" Earth disturbing activities, such as clearing, grading and excavation of land. For purposes of this permit, construction activities also means construction site, construction site activities, or site. Construction activities also include any demolition activities at a site.

"CWA" means Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Pub. L. 92-500, as amended Pub. L. 95-217, Pub. L. 95-576, Pub. L. (96-483 and Pub. L. 97-117, 33 U.S.C. 1251 et seq.).

"Dedicated portable asphalt plant" A portable asphalt plant that is located on or contiguous to a construction site and that provides asphalt only to the construction site that the plant is located on or adjacent to. The term dedicated portable asphalt plant does not include facilities that are subject to the asphalt emulsion effluent limitation guideline at 40 CFR 443.

"Dedicated portable concrete plant" A portable concrete plant that is located on or contiguous to a construction site and that provides concrete only to the construction site that the plant is located on or adjacent to.

"Dedicated sand or gravel operation" An operation that produces sand and/or gravel for a single construction project.

"Director" means the Director of the Illinois Environmental Protection Agency or an authorized representative.

"Final Stabilization" means that all soil disturbing activities at the site have been completed, and either of the two following conditions are met:

- (i) A uniform (e.g., evenly distributed, without large bare areas) perennial vegetative cover with a density of 70 percent of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or
- (ii) Equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.

For individual lots in residential construction, final stabilization means that either:

- (i) The homebuilder has completed final stabilization as specified above, or
- (ii) The homebuilder has established temporary stabilization including perimeter controls for an individual lot prior to occupation of the home by the homeowner and informing the homeowner of the need for, and benefits of, final stabilization.

"Large and Medium municipal separate storm sewer system" means all municipal separate storm sewers that are either:

- (i) Located in an incorporated place (city) with a population of 100,000 or more as determined by the latest Decennial Census by the Bureau of Census (these cities are listed in Appendices F and G of 40 CFR Part 122); or
- (ii) Located in the counties with unincorporated urbanized populations of 100,000 or more, except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties (these counties are listed in Appendices H and I of 40 CFR Part 122); or
- (iii) Owned or operated by a municipality other than those described in paragraph (i) or (ii) and that are designated by the Director as part of the large or medium municipal separate storm sewer system.

"NOI" means notice of intent to be covered by this permit (see Part II of this permit.)

"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, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharges. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.

"Runoff coefficient" means the fraction of total rainfall that will appear at the conveyance as runoff.

"Storm Water" means storm water runoff, snow melt runoff, and surface runoff and drainage.

"Storm Water Associated with Industrial Activity" means the discharge from any conveyance which is used for collecting and conveying storm water and which is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the NPDES program. For the categories of industries identified in subparagraphs (i) through (x) of this subsection, the term includes, but is not limited to, storm water discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process waste waters (as defined at 40 CFR 401); sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and finished products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water. For the categories of industries identified in subparagraph (xi), the term includes only storm water discharges from all areas listed in the previous sentence (except access roads) where material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, or industrial machinery are exposed to storm water. For the purposes of this paragraph, material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, by-product or waste product.

The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with storm water drained from the above described areas. Industrial facilities (including industrial facilities that are Federally or municipally owned or operated that meet the description of the facilities listed in this paragraph (i)-(xi)) include those facilities designated under 40 CFR 122.26(a)(1)(v). The following categories of facilities are considered to be engaging in "industrial activity" for purposes of this subsection:

- (i) Facilities subject to storm water effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR Subchapter N (except facilities with toxic pollutant effluent standards which are exempted under category (xi) of this paragraph);
- (ii) Facilities classified as Standard Industrial Classifications 24 (except 2434), 26 (except 265 and 267), 28, 29, 311, 32, 33, 3441, 373;
- (iii) Facilities classified as Standard Industrial Classifications 10 through 14 (mineral industry) including active or inactive mining operations (except for areas of coal mining operations meeting the definition of a reclamation area under 40 CFR 434.11(l)) and oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge storm water contaminated by contact with or that has come into contact with, any overburden, raw material, intermediate products, finished products, byproducts or waste products located on the site of such operations; inactive mining operations are mining sites that are not being actively mined, but which have an identifiable owner/operator;
- (iv) Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under Subtitle C of RCRA;
- (v) Landfills, land application sites, and open dumps that have received any industrial wastes (waste that is received from any of the facilities described under this subsection) including those that are subject to regulation under Subtitle D of RCRA;
- (vi) Facilities involved in the recycling of materials, including metal scrapyards, battery reclaimers, salvage yards, and automobile junkyards, including but

limited to those classified as Standard Industrial Classification 5015 and 5093;

- (vii) Steam electric power generating facilities, including coal handling sites;
- (viii) Transportation facilities classified as Standard Industrial Classifications 40, 41, 42, 44, and 45 which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, airport deicing operations, or which are otherwise identified under subparagraphs (i)-(vii) or (ix)-(xi) of this subsection are associated with industrial activity;
- (ix) Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, with a design flow of 1.0 mgd or more, or required to have an approved pretreatment program under 40 CFR 403. Not included are farm lands, domestic gardens or lands used for sludge management where sludge is beneficially reused and which are not physically located in the confines of the facility, or areas that are in compliance with 40 CFR 503;
- (x) Construction activity including clearing, grading and excavation activities except: operations that result in the disturbance of less than one acre of total land area which are not part of a larger common plan of development or sale unless otherwise designated by the Agency pursuant to Part I.B.1.
- (xi) Facilities under Standard Industrial Classifications 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 31 (except 311), 34 (except 3441), 35, 36, 37 (except 373), 38, 39, 4221-25, (and which are not otherwise included within categories (i)-(x)).

"Waters" mean 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 the State of Illinois, except that sewers and treatment works are not included except as specially mentioned; provided, that nothing herein contained shall authorize the use of natural or otherwise protected waters as sewers or treatment works except that in-stream aeration under Agency permit is allowable.

"Work day" for the purpose of this permit, a work day is any calendar day on which construction activities will take place.

ILR10TMLPMTFINAL\_7/29//2013

The following modifications have been made to the final permit from the previously issued General NPDES Permit ILR10:

1. I.B.1: A requirement that existing permittees may have to update/revise their Storm Water Pollution Prevention Plan (SWPPP). See also Section II.A.2 below
2. II.A.2: Provides that permittees must upgrade/revise their SWPPP within 12 months of the effective date of this permit. Projects which will be terminated within the next 12 months are not required to update/revise their SWPPP.
3. II.C.7: The requirement for consultation with the Illinois Historic Preservation Agency and the Illinois Department of Natural Resources was moved from Section I.C.3 to Section II.C.7.
4. II.C.9: Revised Notices of Intent for substantial modifications.
5. II.D: Where to submit Notices of Intent.
6. II.E: NOI shall be copied to local active MS4 permit holders.
7. II.F.1.d: Date of completion and stabilization now included in Notice of Termination (NOT).
8. II.F.2: Provides for electronic submission of NOT.
9. III.A.3: Prohibition of various non-storm water discharges in accordance with 40 CFR 450.
10. III.A.4: Allowance for groundwater dewatering in accordance with 40 CFR 450.
11. IV.B.5: Copy of Approval Letter must be posted at site.
12. IV.D.1.e: Inclusion of information concerning off-site stockpiling of soils or other materials in the site description.
13. IV.D.2.a: Delineation of erosion and sediment controls now specified in accordance with 40 CFR 450.
14. IV.D.2.b: Requirements for initiation of stabilization activities in accordance with 40 CFR 450.
15. IV.D.2.c: Design requirements for sediment basins added to permit.
16. IV.D.2.f: Pollution prevention measures now included in permit in accordance with 40 CFR 450.
17. IV.D.2.g: Provisions for control of other wastes now included in permit.
18. IV.D.2.h: Requirement to explicitly consider post-construction storm water management in the SWPPP.
19. IV.D.3.b. Requirement to keep sediment basins in operating condition.

20. IV.D.4.a: Clarified inspection requirements after construction has temporarily ceased or under frozen conditions.
21. IV.D.4.e: Specified that corrective actions must be undertaken immediately following an incident of non-compliance in accordance with 40 CFR 450.
22. VI.S: Bypass and Upsets provisions were added to the Standard Permit Conditions.
23. VIII: Definition of construction activities was added to permit.
24. VIII: Definition of work day was added to the permit.
25. General: References to the Illinois Environmental Protection Agency's Urban Manual were changed to Illinois Urban Manual (2012).
26. General: The word "facilities" in previous permit was changed to "construction activities" in the draft permit.
27. General: Various edits.

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS, )  
 by LISA MADIGAN, Attorney )  
 General of the State of Illinois, )  
 )  
 Complainant, )  
 )  
 v. )  
 )  
 FITNESS INTERNATIONAL, LLC, )  
 a California limited liability company, and )  
 C.E. GLEESON CONSTRUCTORS, )  
 INC., a Michigan corporation, )  
 )  
 Respondents. )  
 )

PCB No. 15-  
(Enforcement – Water)

**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”), Fitness International, LLC, a California limited liability company, and C.E. Gleeson Constructors, Inc., a Michigan corporation, (“Respondents”), (collectively “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. (2012), the Board’s regulations, and conditions of the National Pollutant Discharge Elimination Permit (“NPDES”) Permit 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. On January 30, 2015, a Complaint was 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 (2012), against the Respondents.

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 this Complaint, Respondent, FITNESS INTERNATIONAL, LLC (“Fitness International”), was and is a California limited liability company registered to do business in Illinois.

4. At all times relevant to this Complaint, Respondent, C.E. GLEESON CONSTRUCTORS, INC. (“C.E. Gleeson”), was and is a Michigan corporation registered to do business in Illinois.

5. Fitness International sought to demolish the existing LA Fitness center located at 265 Army Trail Road, Glendale Heights, DuPage County, Illinois (“Site”) and construct a new LA Fitness multipurpose sports and fitness club and parking lot, in an area totaling 6.7 acres.

6. On March 7, 2013, Fitness International, as owner, and C.E. Gleeson, as operator, were granted coverage under the general National Pollutant Discharge Elimination System (“NPDES”) Permit for construction at the Site (“NPDES Permit”).

**B. Allegations of Non-Compliance**

Complainant contends that the Respondents have violated the following provisions of the Act, Board regulations, and NPDES Permit:

- Count I: Water Pollution, in violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2012);
- Count II: Water Pollution Hazard, in violation of Section 12(d) of the Act, 415 ILCS 5/12(d) (2012);
- Count III: Causing Offensive Conditions, in violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2012), and Section 302.203 of the Board Water Pollution regulations, 35 Ill. Adm. Code 302.203;

AS TO RESPONDENT FITNESS INTERNATIONAL ONLY

- Count IV: Failure to Comply with the Terms and Conditions of a National Pollutant Discharge Elimination System Permit, in violation of Section 12(f) of the Act, 415 ILCS 5/12(f) (2012), Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a), and Part III.A. 1 and 4 of the NPDES Permit; and
- Count V: Violation of NPDES permit Reporting Requirements, in violation of Section 12(f) of the Act, 415 ILCS 5/12(f) (2012), Section 305.102(b) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 305.102(b), and Part IV.D.4.e of the NPDES Permit.

**C. Non-Admission of Violations**

The Respondents represent that they have entered into this Stipulation for the purpose of settling and compromising disputed claims without having to incur the expense of contested litigation. By entering into this Stipulation and complying with its terms, the Respondents do not affirmatively admit the allegations of violation within the Complaint and referenced within Section I.B herein, and this Stipulation shall not be interpreted as including such admission.

**D. Compliance Activities to Date**

1. On October 28, 2013, the Respondents completed construction on the Site.
2. On November 6, 2013, the NPDES Permit for the Site was terminated.

**II. APPLICABILITY**

This Stipulation shall apply to and be binding upon the Parties to the Stipulation. The Respondents shall not raise as a defense to any enforcement action taken pursuant to this

Stipulation the failure of any of their 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 Respondents 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 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 and the Illinois EPA's information gathering responsibilities hindered by the Respondents' violations.
2. There is social and economic benefit to the Site.
3. Operation of the Site was and is suitable for the area in which it is located.

4. Compliance with the Act and the Board regulations and the terms and conditions of the NPDES Permit is both technically practicable and economically reasonable.

5. The Respondents have subsequently complied with the Act, the Board regulations, and the terms and conditions of the NPDES Permit.

#### **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. The Respondents failed to provide adequate stabilization and erosion control measures at the Site. The violations were observed on three (3) separate inspections and resolved at various times during the period of June 18, 2013 to November 6, 2013.
2. The Respondents were diligent in attempting to come back into compliance with the Act, Board regulations and the NPDES Permit once the Illinois EPA notified them of their noncompliance and the unresponsiveness of their subcontractor.
3. The civil penalty takes into account any economic benefit realized by the Respondents as a result of avoided or delayed compliance.
4. Complainant has determined, based upon the specific facts of this matter, that a penalty of Four Thousand Dollars (\$4,000.00) for Fitness International and Six Thousand Dollars (\$6,000.00) for C.E. Gleeson will serve to deter further violations and aid in future voluntary compliance with the Act, Board regulations, and NPDES Permit.
5. To Complainant's knowledge, the Respondents have 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 proposed by Respondent, but rejected by the Illinois EPA.

**V. TERMS OF SETTLEMENT**

**A. Penalty Payments**

1. Respondent Fitness International shall pay a civil penalty in the sum of Four

Thousand Dollars (\$4,000.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

2. Respondent C.E. Gleeson shall pay a civil penalty in the sum of Six Thousand Dollars (\$6,000.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

**B. Interest and Default**

1. If either Respondent fails to make its individual penalty payment required by this Stipulation on or before the date upon which the payment is due, that 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 Respondents 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:

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

**D. Future Compliance**

1. The Respondents shall comply with the terms and conditions of the NPDES permit program in future construction.

2. 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 Respondents' Site 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.

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

4. The Respondents 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 Fitness International's payment of the \$4,000.00 penalty, C.E. Gleeson's payment of the \$6,000.00 penalty, and any specified costs and accrued interest, and their commitment to cease and desist as contained in Section V.D.4 above, and upon the Board's approval of this Stipulation, the Complainant releases, waives and discharges the Respondents from any further liability or penalties for the violations of the Act, Board regulations, and NPDES Permit 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 on January 30, 2015. The Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against the Respondents 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 Respondents' 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 Respondents.

**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.

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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

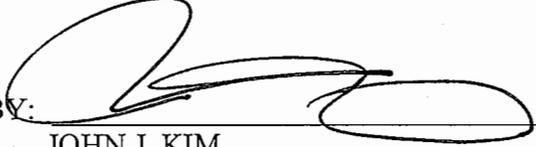
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

LISA MADIGAN  
Attorney General  
State of Illinois

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

LISA BONNETT, Director  
Illinois Environmental Protection Agency

BY:   
ELIZABETH WALLACE, Chief  
Assistant Attorney General  
Environmental Bureau

BY:   
JOHN J. KIM  
Chief Legal Counsel

DATE: 1/20/15

DATE: 1/13/15

RESPONDENT  
  
FITNESS INTERNATIONAL, LLC

RESPONDENT  
  
C.E. GLEESON CONSTRUCTORS,  
INC.

By: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_

DATE: \_\_\_\_\_

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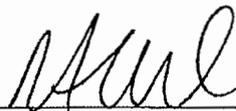
BY: \_\_\_\_\_  
JOHN J. KIM  
Chief Legal Counsel

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

RESPONDENT

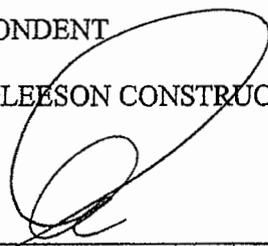
FITNESS INTERNATIONAL, LLC

By:   
Its: SVP, General Counsel

DATE: 12-24-14

RESPONDENT

C.E. GLEESON CONSTRUCTORS, INC.

By:   
Its: President / CEO

DATE: 1-20-15