

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
by KWAME RAOUL, Attorney General)
of the State of Illinois,)
))
Complainant)
))
v.)
))
DEER VIEW, LLC, an Illinois limited liability)
company, and PROFESSIONAL SWINE)
MANAGEMENT, LLC, an Illinois limited liability)
company)
))
Respondents.)

**PCB No. 24-
(Enforcement -Water)**

NOTICE OF FILING

TO: See attached service list

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the following Complaint, Stipulation and Proposal for Settlement and Motion for Relief from Hearing Requirements, copies which are attached and hereby served upon you. **You may be required to answer the charges of the Complaint at a hearing before the Board, at a date set by the Board.**

Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the clerk's office, or an attorney.

NOTIFICATION - YOU ARE HEREBY NOTIFIED that financing may be available through the Illinois Environmental Facilities Financing Act [20 ILCS 3515/1, et seq.] to correct the alleged violations.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
KWAME RAOUL, Attorney General
of the State of Illinois

By: /s/Kevin D. Barnai
Kevin D. Barnai, #6329422
Assistant Attorney General
Illinois Attorney General's Office
500 South Second Street
Springfield, Illinois 62706
Office: (217) 782-9035
Cell: (217) 685-4247
Kevin.Barnai@ilag.gov

Dated: August 7, 2023

Service List

For the Respondents

Claire Manning
Brown, Hay & Stephens, LLP
205 S. Fifth Street
Springfield, IL 62704
cmanning@bhslaw.com
(via certified mail)

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
 by KWAME RAOUL, Attorney General)
 of the State of Illinois,)
)
 Complainant)
)
 v.)
)
 DEER VIEW, LLC, an Illinois limited liability)
 company, and PROFESSIONAL SWINE)
 MANAGEMENT, LLC, an Illinois limited liability)
 company)
)
 Respondents.)

PCB No. 24-
(Enforcement – Water)

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, complains of the Respondents, DEER VIEW, LLC, an Illinois limited liability company, and PROFESSIONAL SWINE MANAGEMENT, LLC, an Illinois limited liability company, as follows:

COUNT I
WATER POLLUTION

1. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* KWAME RAOUL, Attorney General of the State of Illinois, on his own motion and at the request of the Illinois Environmental Protection Agency (“Illinois EPA”), pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2022), against Respondents, DEER VIEW, LLC, and PROFESSIONAL SWINE MANAGEMENT, LLC.

2. The Illinois Environmental Protection Agency (“Illinois EPA”) is an agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4

(2022), and charged, *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board.

3. The Illinois Pollution Control Board (“Board”) is an independent board created by the Illinois General Assembly in Section 5 of the Act, 415 ILCS 5/5 (2022), and charged, *inter alia*, with the duty of promulgating standards and regulations under the Act.

4. Respondent, DEER VIEW, LLC, (“Deer View”) is an Illinois limited liability company in good standing with the Illinois Secretary of State. At all times relevant to the Complaint, Deer View was and is the owner of the facility located at 1487 East County Road 150 North, West Point, Hancock County, Illinois (“Facility”). The Facility is located by two unnamed tributaries. The western watershed of the property is the start of an unnamed tributary which flows to Panther Creek and the eastern watershed of the property drains to an eastern unnamed tributary of Panther Creek, which ultimately flows to the Mackinaw River. The Facility is a farrow-to-wean swine operation with approximately 8,000 head of swine weighing 55 pounds or more, and approximately 8,966 head of swine weighing less than 55 pounds.

5. Respondent, PROFESSIONAL SWINE MANAGEMENT, LLC, (“PSM”) is an Illinois limited liability company in good standing with the Illinois Secretary of State. PSM is the operator of the Facility, and has a contract with Deer View to grow the hogs at the Facility.

6. On July 1, 2020, Illinois EPA responded to a citizen complaint regarding a livestock waste discharge at the Facility.

7. During the inspection, Illinois EPA investigated the Facility’s two aboveground storage tanks (“west” and “east”), which each store up to 2.5 million gallons of livestock waste. Illinois EPA noted a pool of livestock waste mixed with stormwater surrounding the west

aboveground tank. The east aboveground tank had streaks of dried livestock waste running down the outside of the tank.

8. During the inspection, Illinois EPA determined that the likely source of the pooled livestock waste around the tanks was overflow from the east aboveground tank. The portion of the Facility where the aboveground tanks are located drains to the west watershed.

9. During the inspection, Illinois EPA determined that the west watershed directs storm water toward an unnamed waterway that begins approximately 40 feet south of the west aboveground tank, and continues for approximately 780 feet as the origin of a western unnamed tributary to Panther Creek, a part of the Bear Creek Watershed within the Mississippi River Central Basin.

10. During the inspection, Illinois EPA followed the unnamed waterway, observing a dark brown pool of liquid with livestock odor at the beginning of the waterway. The western unnamed tributary to Panther Creek was brown and moderately turbid, and had a livestock waste odor. Illinois EPA continued along the unnamed tributary and noted that the water quality improved with additional distance downstream from the Facility.

11. During the inspection, Illinois EPA inspected the Facility's mortality compost area. Illinois EPA observed a leachate flow path toward the south, beginning at the southwest corner of a shed containing the composter. A significant crack on the east side of the shed holding the composter was observed to be contributing to the leachate flow and was draining into nearby vegetation. The area of the Facility where the mortality compost area is located drains to the east watershed.

12. During the inspection, Illinois EPA observed that the east watershed directs storm water towards a subsurface drain riser at the east edge of the Facility, which drains to an eastern unnamed tributary of Panther Creek.

13. During the inspection, Illinois EPA followed the mortality compost leachate flow path along a manmade waterway which entered the subsurface drain riser.

14. On July 6, 2020, Illinois EPA conducted a follow-up inspection at the Facility. No remaining leachate or livestock waste was observed in the affected areas. Illinois EPA concluded that the livestock waste had either dried or absorbed into the ground.

15. During the follow-up inspection, Illinois EPA noted turbidity in both unnamed tributaries.

16. Section 12(a) of the Act, 415 ILCS 5/12(a) (2022), 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;

* * *

17. Section 3.315 of the Act, 415 ILCS 5/3.315 (2022), 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.

18. Deer View, LLC, a limited liability company, is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2022).

19. Professional Swine Management, LLC, a limited liability company, is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2022).

20. Section 3.165 of the Act, 415 ILCS 5/3.165 (2022), contains the following definition:

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

21. Livestock waste and mortality compost leachate are each a “contaminant” as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2022).

22. Section 3.545 of the Act, 415 ILCS 5/3.545 (2022), contains 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 water 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.

23. Section 3.550 of the Act, 415 ILCS 5/3.550 (2022), contains 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.

23. The unnamed tributaries to Panther Creek are “waters” as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2022).

24. Beginning on or before July 1, 2020, Respondents caused, threatened, or allowed livestock waste and mortality compost leachate to be discharged from the Facility to the unnamed tributaries of Panther Creek.

25. The discharge of livestock waste and mortality compost leachate into the unnamed

tributaries to Panther Creek does 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, and therefore is “water pollution,” as that term is defined in Section 3.545 of the Act, 415 ILCS 5/3.545 (2022).

26. By causing, threatening, or allowing livestock waste and mortality compost leachate to be discharged from the Facility to the unnamed tributaries of Panther Creek, Respondents caused, threatened, or allowed the discharge of a contaminant into the environment so as to cause or tend to cause water pollution in Illinois, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2022).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, DEER VIEW, LLC and PROFESSIONAL SWINE MANAGEMENT, LLC, on this Count I, as follows:

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

B. Find that Respondents, DEER VIEW, LLC and PROFESSIONAL SWINE MANAGEMENT, LLC, have violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2022);

C. Ordering Respondent to cease and desist from further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2022);

D. Assessing against Respondent, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2022), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2022), and an additional Ten Thousand Dollars (\$10,000.00)

for each day of each violation;

E. Assess against each Respondent a civil penalty not to exceed Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, with an additional penalty not to exceed Ten Thousand Dollars (\$10,000.00) for each day of each violation, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2022);

F. Ordering Respondent to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action; and

G. Ordering such other and further relief as the Board deems appropriate and just.

COUNT II
WATER POLLUTION HAZARD

1-26. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 26 of Count I as paragraphs 1 through 26 of this Count II.

27. Section 12(d) of the Act, 415 ILCS 5/12(d) (2022), 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.

28. Beginning on or before on July 1, 2020, Respondents deposited livestock waste and mortality compost leachate upon the land at the Facility, such that said wastes flowed freely into the unnamed tributaries of Panther Creek.

29. By depositing livestock waste and mortality compost leachate upon the land at the Facility, Respondents deposited contaminants upon the land in such a place and manner so as to create a water pollution hazard, and thereby violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2022).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, DEER VIEW, LLC and PROFESSIONAL SWINE MANAGEMENT, LLC, on this Count II, as follows:

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

B. Finding that Respondents have violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2022);

C. Ordering Respondent to cease and desist from further violations of Section 12(d) of the Act, 415 ILCS 5/12(d) (2022);

D. Assessing against Respondent, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2022), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2022), and an additional Ten Thousand Dollars (\$10,000.00) for each day of each violation;

E. Ordering Respondent to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action; and

F. Ordering such other and further relief as the Board deems appropriate and just.

COUNT III
DISCHARGE OF CONTAMINANTS WITHOUT AN NPDES PERMIT

1-26. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 26 of Count I as paragraphs 1 through 25 of this Count III.

27. Section 12(f) of the Act, 415 ILCS 5/12(f) (2022), 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.

28. Section 309.102(a) of the Illinois Pollution Control Board's ("Board") Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a), provides as follows:

- (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.

29. Section 502.101(a) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.101(a), provides as follows:

- (a) A Concentrated Animal Feeding Operation (CAFO) is a point source. Any discharge of pollutants into waters of the United States from a CAFO is prohibited unless authorized by an NPDES permit or unless the discharge is an agricultural stormwater discharge as described in Section 502.102(b). No person shall cause or allow a discharge from a CAFO in violation of federal or State law, including but not limited to the Clean Water Act (CWA) (33 USC 1251), the Act or Board regulations.

30. Section 301.240 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 301.240, provides as follows:

"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.)

31. 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.

32. Section 501.225 of the Board’s Agriculture Related Pollution Regulations, 35 Ill.

Adm. Code 501.225, provides the following definition of an “Animal Feeding Operation”:

- (a) A lot or facility (other than an aquatic animal production facility) where the following conditions are met:
 - (1) Animals have been, are or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and
 - (2) Crops, vegetation, forage growth or post-harvest residues that are grown in place are not sustained in the normal growing season over any portion of the lot or facility.
- (b) Two or more animal feeding operations under common ownership are deemed to be a single animal feeding operation if they are adjacent to each other or if they utilize a common area or system for the disposal of wastes.

33. The Facility, where animals are stabled or confined and fed and maintained for a total of 45 days or more in a 12-month period, is an “Animal Feeding Operation,” as that term is defined in Section 501.225 of the Board’s Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.225.

34. Section 502.103 of the Board’s Agriculture Related Pollution Regulations, 35 Ill.

Adm. Code 502.103, provides the following definition of a “Large CAFO”:

An Animal Feeding Operation is defined as a Large CAFO if at least the numbers of animals specified in any of the following categories are stabled or confined:

Number of Animals	Kind of Animals
	* * *
2,500	Swine, each weighing 55 pounds or more
10,000	Swine, each weighing less than 55 pounds
	* * *

35. The Facility, where approximately 8,000 head of swine weighing 55 pounds or more, and approximately 8,966 head of swine weighing less than 55 pounds, are stabled or confined, is a “Large CAFO” as that term is defined in Section 502.103 of the Board’s Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.103.

36. As a concentrated animal feeding operation, the Facility is a point source as the term is defined in Section 1362(14) of the CWA, 33 U.S.C. § 1362(14), and Section 502.101(a) of the Board’s Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.101(a).

37. Beginning on or before July 1, 2020, Respondent caused, threatened, or allowed livestock waste and mortality compost leachate to be discharged from the Facility into the unnamed tributaries of Panther Creek.

38. By causing, threatening, or allowing the discharge of contaminants from a point source to waters of the State without a valid NPDES permit, Respondents violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2022), and Section 309.102(a) of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a).

39. By causing, threatening, or allowing the discharge of contaminants from a CAFO to waters of the State without a valid NPDES permit, Respondents violated Section 502.101(a) of

the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 502.101(a), and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2022).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, DEER VIEW, LLC and PROFESSIONAL SWINE MANAGEMENT, LLC, on this Count III, as follows:

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

B. Finding that Respondents have violated Sections 12(a) and (f) of the Act, 415 ILCS 5/12(a) and (f) (2022), and Sections 309.102(a) and 502.101(a) of the Board's Regulations, 35 Ill. Adm. Code 309.102(a) and 502.101(a);

C. Ordering Respondents to cease and desist from further violations of Sections 12(a) and (f) of the Act, 415 ILCS 5/12(a) and (f) (2022), and Sections 309.102(a) and 502.101(a) of the Board's Regulations, 35 Ill. Adm. Code 309.102(a) and 502.101(a);

D. Assessing against Respondent, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2022), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2022), and an additional Ten Thousand Dollars (\$10,000.00) for each day of each violation;

E. Ordering Respondent to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action;

F. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022), award Complainant its costs in this matter, including reasonable attorney's fees and costs; and

G. Ordering such other and further relief as the Board deems appropriate and just.

COUNT IV
OFFENSIVE CONDITIONS

1-26. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 26 of Count I as paragraphs 1 through 26 of this Count IV.

26. Section 302.203 of the Board's 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 . . .

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

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

28. Section 301.275 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 301.275, provides, in pertinent part, the following definition:

"Effluent" means any wastewater discharged, directly or indirectly, to the waters of the State or to any storm sewer, and the runoff from land used for the disposition of wastewater and sludges, but does not otherwise include nonpoint source discharges.

29. Livestock waste is an "effluent," as that term is defined in Section 301.275 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 301.275.

30. Beginning on or before July 1, 2020, a dark brown pool of liquid with livestock odor had collected at the beginning of the western unnamed tributary to Panther Creek, which was brown, moderately turbid, and had a livestock waste odor. Illinois EPA continued along the

unnamed tributary and noted that the water quality improved with additional distance downstream from the Facility.

31. By causing or allowing the discharge of livestock waste into a water of the State, resulting in the water's unnatural color, odor, and turbidity, Respondents caused offensive conditions in violation of Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203, and thereby violated Section 304.105 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.105.

32. By violating Sections 302.203 and 304.105 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203 and 304.105, Respondents thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2022).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, DEER VIEW, LLC and PROFESSIONAL SWINE MANAGEMENT, LLC, on this Count IV, as follows:

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

B. Finding that Respondents have violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2022), and Sections 302.203 and 304.105 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203 and 304.105;

C. Ordering Respondents to cease and desist from further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2022), and Sections 302.203 and 304.105 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203 and 304.105;

D. Assessing against Respondent, pursuant to Section 42(a) of the Act, 415 ILCS

5/42(a) (2022), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2022), and an additional Ten Thousand Dollars (\$10,000.00) for each day of each violation;

E. Assess against each Respondent a civil penalty not to exceed Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and Board's Water Pollution Regulations, with an additional penalty not to exceed Ten Thousand Dollars (\$10,000.00) for each day of each violation, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2022);

F. Ordering Respondent to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action ; and

G. Ordering such other and further relief as the Board deems appropriate and just.

COUNT V
EXCEEDANCE OF AMMONIA NITROGEN WATER QUALITY STANDARD

1-28. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 26 of Count I, and paragraphs 28 through 31 of Count IV, as paragraphs 1 through 29 of this Count V.

30. Section 302.212(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.212(a), provides as follows:

- (a) Total ammonia nitrogen (as N: STORET Number 00610) must in no case exceed 15 mg/L.

31. Ammonia nitrogen is a measure for the amount of ammonia, a toxic pollutant often found in landfill leachate and in waste products, such as sewage, liquid manure and other liquid organic waste products. Toxic concentrations of ammonia in humans may cause loss of equilibrium, convulsions, coma and death. Ammonia levels in excess of the recommended limits may harm or even kill aquatic life.

32. During the July 1, 2020 inspection, Illinois EPA collected a sample from the western unnamed tributary of Panther Creek for testing. The sample collected measured at 37 milligrams per liter (“mg/L”) for total ammonia nitrogen, in excess of the water quality standard of 15 mg/L required by Section 302.212(a) of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 302.212(a).

33. By allowing the release of livestock waste to an unnamed tributary of Panther Creek causing total ammonia nitrogen exceeding 15 mg/L, Respondents caused a violation of the water quality standard for ammonia nitrogen in violation of Section 302.212(a) of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 302.212(a), and thereby violated Section 304.105 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 304.105.

34. By violating Sections 302.212(a) and 304.105 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 302.212(a) and 304.105, Respondents thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2022).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, DEER VIEW, LLC and PROFESSIONAL SWINE MANAGEMENT, LLC, on this Count V, as follows:

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

B. Finding that Respondents have violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2022), and Sections 302.212(a) and 304.105 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 302.212(a) and 304.105;

C. Ordering Respondent to cease and desist from further violations of Section 12(a) of

the Act, 415 ILCS 5/12(a) (2022), and Sections 302.212(a) and 304.105 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.212(a) and 304.105;

D. Assessing against Respondent, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2022), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2022), and an additional Ten Thousand Dollars (\$10,000.00) for each day of each violation ;

E. Ordering Respondent to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action; and

F. Ordering such other and further relief as the Board deems appropriate and just.

COUNT VI
AGRICULTURE RELATED POLLUTION VIOLATIONS

1-39. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 26 of Count I, paragraphs 32 and 33 of Count III, paragraphs 27 through 33 of Count IV, and paragraphs 30 through 34 of Count V, as paragraphs 1 through 40 of this Count VI.

41. At all times relevant to this Complaint, no precipitation that qualified as a 24-hour 25-year storm event occurred at the Facility.

42. Section 501.401(e) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.401(e), provides, in pertinent part, as follows:

* * *

(e) Any runoff or overflow from a livestock management facility or a livestock waste-handling facility shall not cause a water quality violation pursuant to the Act or 35 Ill. Adm. Code Subtitle C: Water Pollution.

43. Section 501.285 of the Board Regulations, 35 Ill. Adm. Code 501.285, provides the following definition of a "Livestock Management Facility":

Any animal feeding operation, livestock shelter or on-farm milking and accompanying milk-handling area.

44. The Facility, an animal feeding operation, is a “Livestock Management Facility” as that term is defined in Section 501.285 of the Board’s Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.285.

45. Section 501.300 of the Board’s Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.300, provides the following definition of a “Livestock Waste-Handling Facility”:

Individually or collectively those constructions or devices, except sewers, used for collecting, pumping, treating or disposing of livestock waste or for the recovery of by-products from such livestock waste. Such a facility includes acceptable disposal areas, such as pasture or other suitable agricultural land, which can serve as an adequate filtering device to settle out and assimilate pollutants from livestock waste before the clarified water reaches a stream or other body of surface water or groundwater.

46. The Facility, which contains constructions or devices used for collecting, pumping, treating or disposing of livestock waste, is a “Livestock Waste-Handling Facility” as that term is defined in Section 501.300 of the Board’s Agriculture Related Pollution Regulations.

47. Beginning on or before July 1, 2020, Respondents caused, threatened or allowed runoff or overflow from a livestock management facility or a livestock waste-handling facility so as to cause water quality violations in violation of the Act and the Board’s Water Pollution Regulations, and thereby violated Section 501.401(e) of the Board’s Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.401(e).

48. Section 501.403(b) of the Board’s Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.403(b), provides, in pertinent part, as follows:

* * *

(b) New livestock management facilities and livestock waste-handling facilities shall have adequate diversions, dikes, walls or curbs that will prevent excessive outside surface runoff waters from flowing

through the animal feeding operation and will direct runoff to an appropriate disposal, holding or storage area. The diversions are required on all aforementioned structures unless there is negligible outside surface water which can flow through the facility or the runoff is tributary to an acceptable disposal area or a livestock waste-handling facility. A holding pond must be capable of storing a volume equal to or exceeding the area of the animal feeding operation, plus any tributary area not a part of the animal feeding operation (including roof area if tributary to the facility), multiplied by 12 inches for runoff from earthen areas or 15 inches for runoff from concrete areas unless the operator has justifiable reasons substantiating that a lesser storage volume is adequate. If inadequate storage volumes cause or threaten to cause a violation of the Act or applicable regulations, the Agency may require corrective measures. In no case shall the storage volume of the containment facility be less than the 25-year 24-hour storm effluent guidelines as required by the new source performance standards of the U.S. Environmental Protection Agency for the feedlot point source category.

* * *

49. Section 501.330 of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.330, provides the following definition of "New Livestock Management Facility and New Livestock Waste-Handling Facility":

Any livestock management facility or livestock waste-handling facility the construction or modification of which is commenced on or after January 1, 1978.

50. The Facility was constructed between June 2007 and June 2009 and therefore is a "New Livestock Management Facility and New Livestock Waste-Handling Facility" as that term is defined in Section 501.330 of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.330.

51. Beginning on or before July 1, 2020, Respondents owned and operated a new livestock waste handling facility and livestock waste-handling facility that lacked adequate diversions, dikes, walls or curbs to prevent excessive runoff of livestock waste to surface waters,

and thereby violated Section 501.403(b) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.403(b).

52. Section 501.404(c)(3) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.404(c)(3), provides as follows:

(c) Livestock Waste-Holding Facilities

* * *

(3) For livestock management facilities and livestock waste-handling facilities that are not required to obtain an NPDES permit, the contents of livestock waste-handling facilities shall be kept at levels such that there is adequate storage capacity so that an overflow does not occur except in the case of precipitation in excess of a 25-year 24-hour storm.

* * *

53. Beginning on or before July 1, 2020, Respondents failed to maintain adequate livestock waste storage capacity so as to prevent overflows except in the case of precipitation in excess of a 25-year 24-hour storm, and thereby violated Section 501.404(c)(3) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.404(c)(3).

54. By violating Sections 501.401(e), 501.403(b), and 501.404(c)(3) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.401(e), 501.403(b), and 501.404(c)(3), Respondent thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2022).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, DEER VIEW, LLC and PROFESSIONAL SWINE MANAGEMENT, LLC, on this Count VI, as follows:

A. Authorizing a hearing in this matter at which time Respondent will be required to

answer the allegations herein

B. Finding that Respondents have violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2022), and Sections 501.401(e), 501.403(b), and 501.404(c)(3) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.401(e), 501.403(b), and 501.404(c)(3);

C. Ordering Respondent to cease and desist from further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2022), and Sections 501.401(e), 501.403(b), and 501.404(c)(3) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.401(e), 501.403(b), and 501.404(c)(3);

D. Assessing against Respondent, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2022), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2022), and an additional Ten Thousand Dollars (\$10,000.00) for each day of each violation;

E. Assess against each Respondent a civil penalty not to exceed Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and Board's Agriculture Related Pollution Regulations, with an additional penalty not to exceed Ten Thousand Dollars (\$10,000.00) for each day of each violation, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2022);

F. Ordering Respondent to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action; and

G. Ordering such other and further relief as the Board deems appropriate and just.

Respectfully Submitted,

PEOPLE OF THE STATE OF ILLINOIS,
by KWAME RAOUL,
Attorney General of the
State of Illinois

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

By: /s/ Andrew Armstrong
ANDREW B. ARMSTRONG, Chief
Environmental Bureau
Assistant Attorney General

Kevin D. Barnai (ARDC #6329422)
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
500 South Second Street
Springfield, Illinois 62706
Ph: (217) 782-9035
Kevin.Barnai@ilag.gov

1. Contemporaneously with the filing of this Stipulation, a Complaint was filed on behalf of the People of the State of Illinois by KWAME RAOUL, Attorney General of the State of Illinois, on his own motion and upon the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2022), against the Respondent.

2. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2022).

3. At all times relevant to the Complaint, Respondent, DEER VIEW, LLC, ("Deer View") was and is an Illinois limited liability company in good standing with the Illinois Secretary of State.

4. At all times relevant to the Complaint, Deer View was and is the owner of the facility located at 1487 East County Road 150 North, West Point, Hancock County, Illinois ("Facility"). The Facility is located by two unnamed tributaries, the western watershed of the property is the start of an unnamed tributary which flows to Panther Creek and the eastern watershed of the property drains to an eastern unnamed tributary of Panther Creek, which ultimately flows to the Mackinaw River. The Facility is a farrow-to-wean swine operation with approximately 8,000 head of swine weighing 55 pounds or more, and approximately 8,966 head of swine weighing less than 55 pounds.

5. At all times relevant to the Complaint, Respondent, PROFESSIONAL SWINE MANAGEMENT, LLC, ("PSM") was and is an Illinois limited liability company in good standing with the Illinois Secretary of State. PSM is the operator of the Facility, and has a contract with Deer View to grow the hogs at the Facility.

B. Allegations of Non-Compliance

Complainant contends that the Respondent has violated the following provisions of the Act

and Board regulations:

- Count I: WATER POLLUTION
Section 12(a) of the Act, 415 ILCS 5/12(a) (2022)
- Count II: WATER POLLUTION HAZARD
Section 12(d) of the Act, 415 ILCS 5/12(d) (2022)
- Count III: DISCHARGE OF CONTAMINANTS WITHOUT AN NPDES PERMIT
Section 12(f) of the Act, 415 ILCS 5/12(f) (2022)
- Count IV: OFFENSIVE CONDITIONS
Section 12(a) of the Act, 415 ILCS 5/12(a) (2022) and Sections 302.203 and 304.105 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203 and 304.105
- Count V: EXCEEDANCE OF AMMONIA NITROGEN WATER QUALITY STANDARD
Section 12(a) of the Act, 415 ILCS 5/12(a) (2022) and Sections 302.212(a) and 304.105 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.212(a) and 304.105
- Count VI: AGRICULTURE RELATED POLLUTION VIOLATIONS
Section 12(a) of the Act, 415 ILCS 5/12(a) (2022) and Sections 501.401(e), 501.403(b), and 501.404(c)(3) of the Board's Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.401(e), 501.403(b), and 501.404(c)(3)

C. Non-Admission of Violations

The Respondent represents that it has 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 Respondent does 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 July 1, 2020, a custom pumping crew transferred the remaining manure from the overflowed tank to an empty tank. The pumping crew created small dams in the channel to

stop any contaminated flow from leaving the property. Water that collected behind the dams was pumped into the grass.

2. On July 2, 2020, the crew flushed remaining manure to the dam system. The water was pumped into the grass area. The pumpers scraped up remaining sediments from the pools and deposited in the grass area. After the whole area dried it was re-graded so water would not stand.

3. On July 2, 2020, a maintenance crew cleaned up the compost leachate that leached down the hill. Small pools of compost leachate were excavated with shovels and the mud was put in an area to dry out.

4. Respondents reviewed its slurry tank operations. Respondents modified its Standard Operating Procedure so that no more than a maximum of 15" will be added to the tank in one week's time. Respondent developed a written procedure on what and how many plugs to pull and provided training on these procedures to farm management.

5. In July of 2020, Respondents acquired 75 acres of hay ground for use in its land application program.

6. In August of 2020, Respondents added a 14' x 30' apron that slopes west to the front of the compost building. Respondents added cooler strips to the front of the composter so there is a barrier to keep rainwater out of the compost. Respondents added a curb below the cooler strips so that any leachate that may accumulate into the composter is not allowed to flow out.

II. APPLICABILITY

This Stipulation shall apply to and be binding upon the Parties to the Stipulation. The Respondent shall not raise as a defense to any enforcement action taken pursuant to this Stipulation the failure of any of its officers, directors, agents, employees or successors or assigns to take such action as shall be required to comply with the provisions of this Stipulation. This Stipulation may

be used against the Respondent in any subsequent enforcement action or permit proceeding as proof of a past adjudication of violation of the Act and the Board Regulations for all violations alleged in the Complaint in this matter, for purposes of Sections 39 and 42 of the Act, 415 ILCS 5/39 and 42 (2022).

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

Section 33(c) of the Act, 415 ILCS 5/33(c) (2022), 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 due to an unpermitted discharge of manure to a water of the State that caused water pollution.
2. There is social and economic benefit to the facility.
3. Operation of the Facility was and is suitable for the area in which it is located when operated in compliance with the Act and Board regulations.
4. Obtaining compliance with the Act and Board regulations at the Facility is both

technically practicable and economically reasonable.

5. Respondents have subsequently complied with the Act and the Board regulations.

IV. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h) (2022), provides as follows:

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

1. the duration and gravity of the violation;
2. the presence or absence of due diligence on the part of the respondent in attempting to comply with requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;
3. any economic benefits accrued by the respondent because of delay in compliance with requirements, in which case the economic benefits shall be determined by the lowest cost alternative for achieving compliance;
4. the amount of monetary penalty which will serve to deter further violations by the respondent and to otherwise aid in enhancing voluntary compliance with this Act by the respondent and other persons similarly subject to the Act;
5. the number, proximity in time, and gravity of previously adjudicated violations of this Act by the respondent;
6. whether the respondent voluntarily self-disclosed, in accordance with subsection i of this Section, the non-compliance to the Agency;
7. whether the respondent has agreed to undertake a supplemental environmental project, which means an environmentally beneficial project that a respondent agrees to undertake in settlement of an enforcement action brought under this Act, but which the respondent is not otherwise legally required to perform; and
8. whether the respondent has successfully completed a Compliance Commitment Agreement under subsection (a) of Section 31 of this Act to remedy the violations that are the subject of the complaint.

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

1. On July 1, 2020, Illinois EPA discovered Respondents' discharge of manure. On July 2, 2020, Respondents informed Illinois EPA that it cleaned up the discharge. As verified by Illinois EPA's follow-up inspection on July 2, 2020, Respondent had addressed the cleanup of the discharge. On February 27, 2021, Illinois EPA received a supplemental response explaining the actions Respondents have taken to prevent future releases. The gravity of the violations was serious because they resulted in an unpermitted discharge of manure to a water of the State that caused water pollution.

2. Illinois EPA issued Violation Notices No. W-2020-50149 and W-2020-50150 on August 31, 2020 ("VNs"). Respondents' initial response to the VNs was insufficient to address future preventive measures for the Facility. Illinois EPA did not receive Respondents' supplemental response until February 27, 2021.

3. Respondents implemented internal operational changes to ensure that the facility has adequate storage to prevent future releases. The civil penalty takes into account any economic benefit Respondent realized as a result of delayed compliance.

4. Complainant has determined, based upon the specific facts of this matter, that a penalty of TWENTY-FOUR THOUSAND DOLLARS (\$24,000.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

5. Illinois EPA records indicate no previous enforcement action against Respondent, Deer View. Respondent, PSM has been previously adjudicated in violation of the Act as follows:

- a. In *People v. Pinnacle Genetics, LLC, an Illinois limited liability corporation and Professional Swine Management, LLC, an Illinois limited liability corporation*, Pollution Control Board Case No. 07-29, an Order was entered on March 1, 2007. The Order provides that PSM shall cease and desist from any violations of the Illinois Environmental Protection Act, including Section 12 of the Act, and Illinois Pollution Control Board regulations that were the subject of the Complaint in that action.

- b. In *People v. Professional Swine Management, LLC, et al.*, Pollution Control Board Case No. 10-84, an Order was entered on January 19, 2017. The Order provides that the PSM shall cease and desist from any violations of the Illinois Environmental Protection Act, including Section 12 of the Act, and Illinois Pollution Control Board regulations that were the subject of the Complaint in that action.
6. The violations were discovered pursuant to an Illinois EPA inspection and were not discovered due to any self-disclosure by Respondents.
7. The settlement of this matter does not include a supplemental environmental project.
8. Respondent did not receive a Compliance Commitment Agreement.

V. TERMS OF SETTLEMENT

A. **Penalty Payment**

Respondent PSM shall pay a civil penalty in the sum of FIFTEEN THOUSAND DOLLARS (\$15,000.00) and Respondent Deer View shall pay a civil penalty in the sum of NINE THOUSAND DOLLARS (\$9,000.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

B. **Interest and Default**

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

2. Pursuant to Section 42(g) of the Act, interest shall accrue on any penalty amount owed by the Respondent not paid within the time prescribed herein. Interest on unpaid penalties shall begin to accrue from the date such are due and continue to accrue to the date full payment is

received. Where partial payment is made on any penalty amount that is due, such partial payment shall be first applied to any interest on unpaid penalties then owing.

C. Payment Procedures

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

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

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

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

Kevin D. Barnai
Assistant Attorney General
Environmental Bureau South
Illinois Attorney General's Office
500 South Second St.
Springfield, Illinois 62701

D. Future Compliance

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

2. The Illinois EPA, its employees and representatives, and the Attorney General, his employees and representatives, shall have the right of entry into and upon the Respondent's Facility which is the subject of this Stipulation, at all reasonable times for the purposes of conducting inspections and evaluating compliance status. In conducting such inspections, the

Illinois EPA, its employees and representatives, and the Attorney General, his 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 Respondent to comply with any other federal, state or local laws or regulations, including but not limited to the Act and the Board Regulations.

E. Release from Liability

In consideration of the Respondent PSM's payment in the sum of FIFTEEN THOUSAND DOLLARS (\$15,000.00) and Respondent Deer View's payment in the sum of NINE THOUSAND DOLLARS (\$9,000.00) penalty; its compliance with the Act and Board Regulations, as contained in Section V.D.1 above, and its commitment to cease and desist as contained in Section V.D.1 above, completion of all activities required hereunder, and upon the Board's approval of this Stipulation, the Complainant releases, waives and discharges the Respondent from any further liability or penalties for the violations of the Act and Board regulations that were the subject matter of the Complaint herein. The release set forth above does not extend to any matters other than those expressly specified in Complainant's Complaint filed contemporaneously with this Stipulation. The Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against the Respondent with respect to all other matters, including but not limited to, the following:

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

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

F. Enforcement of Stipulation

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

G. Opportunity for Public Comment

Pursuant to 35 Ill. Adm. Code 103.300(b)(2), the Board shall publish notice of this Stipulation for at least thirty (30) days prior to the Board accepting the Stipulation. If public comments are submitted to the Board regarding this Stipulation, the Complainant reserves the right to withdraw its consent if the comments regarding the Stipulation disclose facts or considerations, which indicate that the Stipulation is inappropriate, improper, or inadequate. Respondent consents to the entry of this Stipulation without further notice and agrees not to withdraw from or oppose acceptance of this Stipulation or to challenge any provision of the Stipulation, unless the Complainant has notified Respondent in writing that it withdraws or withholds its consent for the Stipulation. In the event the Complainant notifies the Respondent that it withdraws or withholds its consent for the Stipulation, then the terms of the agreement may not be used as evidence in any litigation between those entities.

H. Execution of Stipulation

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

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

AGREED:


FOR THE COMPLAINANT:

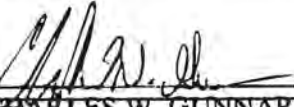
PEOPLE OF THE STATE OF ILLINOIS
ex rel. KWAME RAOUL
Attorney General of the
State of Illinois

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

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

JOHN J. KIM, Director
Illinois Environmental Protection Agency

BY: 
ANDREW B. ARMSTRONG
Chief
Environmental Bureau
Assistant Attorney General

BY: 
CHARLES W. GUNNARSON
Chief Legal Counsel

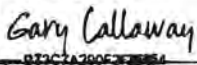
DATE: 08/02/2023


DATE: 7/31/23

FOR THE RESPONDENT:

DEER VIEW LLC

PROFESSIONAL SWINE MANAGEMENT,
LLC

By: 
Its: Chairman of Deer View Board
Date: 7/20/2023

By: 
Its: President
Date: July 17, 2023

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
by KWAME RAOUL, Attorney General)	
of the State of Illinois,)	
)	
Complainant)	
)	
v.)	PCB No. 24-
)	(Enforcement-Water)
DEER VIEW, LLC, an Illinois limited liability)	
company, and PROFESSIONAL SWINE)	
MANAGEMENT, LLC, an Illinois limited liability)	
company)	
)	
Respondents.)	

MOTION FOR RELIEF FROM HEARING REQUIREMENT

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, 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) (2022), 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) (2022). In support of this motion, Complainant states as follows:

1. The Complaint in this matter alleges violations of Section 12(a), (d) and (f) of the Act, 415 ILCS 5/12(a), (d) and (f) (2022), and Sections 302.203, 302.212(a), and 304.105 of the Board’s regulations, 35 Ill. Adm. Code 302.203, 302.212(a) and 304.105 and Sections 501.401(e), 501.403(b), and 501.404(c)(3) of the Board’s Agriculture Related Pollution Regulations, 35 Ill. Adm. Code 501.401(e), 501.403(b), and 501.404(c)(3).
2. Complainant filed its Complaint contemporaneously with the Stipulation.
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) (2022).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby requests that the Board grant this Motion for Relief from Hearing Requirement set forth in Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2022).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
by KWAME RAOUL, Attorney General
of the State of Illinois

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

By: /s/Kevin D. Barnai
Kevin D. Barnai, #6329422
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
500 South Second Street
Springfield, Illinois 62701
Office: (217) 782-9035
Cell: (217) 685-4247
Kevin.Barnai@ilag.gov

Dated: August 7, 2023

CERTIFICATE OF SERVICE

I, Kevin D. Barnai, an Assistant Attorney General, certify that on the 7th day of August 2023, I caused to be served by e-mail and U.S. Certified Mail, the foregoing Notice of Filing, Complaint, Stipulation and Proposal for Settlement and Motion for Relief from Hearing Requirements to the parties named on the attached Service List, by depositing same in postage prepaid envelopes with the United States Postal Service located at 500 South Second Street, Springfield, Illinois 62701.

By: s/ Kevin D. Barnai
Kevin D. Barnai, #6329422
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
500 South Second Street
Springfield, Illinois 62701
Office: (217) 782-9035
Cell: (217) 685-4247
Kevin.Barnai@ilag.gov