

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
by KWAME RAOUL, Attorney)
General of the State of Illinois,)
)
Complainant,)
)
v.) No. 24-
)
CITY OF LASALLE,)
An Illinois municipal corporation,)
)
Respondent.)

NOTICE OF FILING

To: Persons on Attached Service List
(VIA ELECTRONIC FILING)

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

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

BY: /s/ Cara V. Sawyer
Cara V. Sawyer
Assistant Attorney General
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Dated: November 13, 2023

SERVICE LIST

City of LaSalle
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CERTIFICATE OF SERVICE

I, Cara V. Sawyer, an Assistant Attorney General, certify that on the 13th day of November, 2023, I caused to be served the attached Notice of Filing, Complaint, Stipulation and Proposal for Settlement, and Motion for Relief from Hearing Requirement upon the persons listed on the foregoing Service List by certified mail with return receipt and electronic mail.

/s/ Cara V. Sawyer
Cara V. Sawyer
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
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COMPLAINT FOR INJUNCTIVE RELIEF AND CIVIL PENALTIES

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, at the request of the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, complains of the Respondent, CITY OF LASALLE, an Illinois municipal corporation, as follows:

COUNT I
VIOLATION OF NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (“NPDES”) PERMIT EFFLUENT LIMITATIONS

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, at the request of the Illinois Environmental Protection Agency (“Illinois EPA”), against the City of LaSalle (“City” or “LaSalle”), pursuant to Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2022).

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), and charged with, *inter alia*, the duty of enforcing the Act.

3. The City of LaSalle is an Illinois municipal corporation, organized and operating under the laws of the State of Illinois, located in LaSalle County, Illinois, with a population of approximately 9,500.

4. As of the date of filing of this Complaint, the Facility is located in an area of Environmental Justice (“EJ”) concern as identified using Illinois EPA EJ Start.

5. LaSalle owns and operates the LaSalle Wastewater Treatment Plant – South (“LaSalle WWTP-South” or “WWTP-South”) located at 400 River Street, LaSalle, Illinois, which collects and treats wastewater for the City’s residents and businesses.

6. LaSalle WWTP-South discharges into the Illinois River through its Outfall 001.

7. Section 402 of the federal Clean Water Act (“CWA”), 33 U.S.C. § 1342, establishes the National Pollutant Discharge Elimination System (“NPDES”) program to address water pollution by regulating point sources that discharge pollutants to the waters of the United States.

8. The United States Environmental Protection Agency has authorized the State of Illinois to issue NPDES permits through the Illinois EPA in compliance with NPDES federal regulations.

8. 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.

9. Section 309.102(a) of the Illinois Pollution Control Board (“Board”) Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a), provides as follows:

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.

10. Section 3.315 of the Act, 415 ILCS 5/3.315 (2022), provides the following definition:

“Person” means 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.

11. LaSalle, an Illinois municipal corporation, is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2022).

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

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

13. The wastewater discharged from the LaSalle WWTP-South is a “contaminant,” as that term is defined by Section 3.165 of the Act, 415 ILCS 5/3.165 (2022).

14. Section 3.550 of the Act, 415 ILCS 5/3.550 (2022), 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 the State.

15. The Illinois River constitutes “waters” as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2022).

16. Section 401.11(d) of the Code of Federal Regulations (“C.F.R.”), 40 C.F.R. 401.11(d), provides as follows:

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.

17. The LaSalle WWTP-South Outfall 001 is a “point source” within the meaning of 40 C.F.R. 401.11(d).

18. LaSalle is required to have an NPDES permit for wastewater discharges from the WWTP-South pursuant to Section 12(f) of the Act, 415 ILCS 5/12(f) (2022).

19. On November 23, 2015, Illinois EPA issued LaSalle NPDES permit No. IL0029424 (“NPDES Permit”) for discharges of wastewater from the LaSalle WWTP-South, with an expiration date of November 30, 2020. The NPDES Permit was modified on September 27, 2017.

20. LaSalle’s current NPDES Permit includes, among other things, weekly average (“w.a.”) and monthly (“m.a.”) discharge limitations, shown in milligrams per liter (“mg/L”), including effluent limits for total suspended solids (“TSS”) and the five-day biochemical oxygen demand (“BOD₅”), as follows:

	TSS m.a.	TSS w.a.	BOD₅ m.a.	BOD₅ w.a.
Permit limit	30 mg/L	45 mg/L	30 mg/L	45 mg/L

21. As recorded on LaSalle’s monthly Discharge Monitoring Reports (“DMRs”), in June 2021 and August 2021, the effluent LaSalle discharged from its WWTP-South contained concentrations of TSS and BOD₅ that violated w.a. and m.a. concentration limits set forth in its NPDES Permit, as follows:

Date:	TSS m.a.	TSS w.a.	BOD₅ m.a.	BOD₅ w.a.
06/30/2021	N/A	67	33.1	64
08/31/2021	38.9	50.3	32.5	64

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

NPDES Effluent Standards

- a) A person that has been issued a NPDES Permit must not discharge any contaminant in its effluent in excess of the standards and limitations for that contaminant in its permit.

23. By discharging effluent from its facility that exceeded its NPDES Permit concentration limits for TSS and CBOD₅, LaSalle violated the terms and conditions of its NPDES Permit and Sections 304.141(a) and 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 304.141(a) and 309.102(a), and thereby also violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2022).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, CITY OF LASALLE, with respect to Count I:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;
2. Finding that Respondent violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2022), Sections 304.141(a) and 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 304.141(a) and 309.102(a), and the terms and conditions of its NPDES Permit;
3. Ordering the Respondent to cease and desist from any further violations of Section 12(f) of the Act, 415 ILCS 5/12(f) (2022), Sections 304.141(a) and 309.102(a) of the Board Water

Pollution Regulations, 35 Ill. Adm. Code 304.141(a) and 309.102(a), and the terms and conditions of its NPDES Permit;

4. Assessing against the Respondent a civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation of Section 12(f) of the Act, 415 ILCS 5/12(f) (2022), Sections 304.141(a) and 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 304.141(a) and 309.102(a), and the terms and conditions of its NPDES Permit;

5. Taxing all costs in this action including, but not limited to, attorney, expert witness, and consultant fees against Respondents; and

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

COUNT II
CAUSING, THREATENING, OR ALLOWING WATER POLLUTION

1-19. Complainant realleges and incorporates herein paragraphs 1 through 7 and 10 through 21 of Count I, as paragraphs 1 through 19 of this Count II.

20. Section 12(a) of the Act, 415 ILCS 5/12(a) (2022), provides, as follows:

No person shall:

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 the Act.

21. Section 3.545 of the Act, 415 ILCS 5/3.545 (2022), 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.

22. LaSalle's discharge of TSS and BOD₅ into the Illinois River in concentrations that exceeded the limits set forth in its NPDES Permit created a nuisance or rendered such waters harmful or detrimental to public health, safety, or welfare, or to legitimate uses, and thus constitutes "water pollution" as that term is defined in Section 3.545 of the Act, 415 ILCS 5/3.545 (2022).

23. By causing and/or allowing contaminants to be discharged into waters of the State in concentrations that exceeded its NPDES permit limits, LaSalle caused, threatened and/or allowed water pollution in violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2022).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, CITY OF LASALLE, with respect to Count I:

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

2. Finding that Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2022);

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

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

5. Taxing all costs in this action including, but not limited to, attorney, expert witness, and consultant fees against Respondents; and

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

COUNT III
VIOLATION OF NPDES SPECIAL PERMIT CONDITIONS NOs. 15, 17, and 21

1-19. Complainant realleges and incorporates herein paragraphs 1 through 19 of Count I, as paragraphs 1 through 19 of this Count III.

20. NPDES Permit No. IL0029424 includes, among other things, reporting requirements.

21. Special Condition No. 15 of the NPDES Permit regarding Combined Sewage Outfall (“CSO”) Long-Term Control Planning (“LTCP”) progress reports provides, in pertinent part, as follows:

L. CSO Long-Term Control Planning and Compliance with Water Quality Standards

* * *

Progress reports shall be submitted to the Agency six (6) months from the effective date of this Permit and every six (6) months thereafter.

* * *

22. Special Condition No. 15 of the NPDES Permit requires LaSalle to submit semi-annual CSO LTCP progress reports to Illinois EPA by June 1 and December 1 of each year, beginning on December 1, 2015.

23. On February 23, 2022, LaSalle untimely submitted to Illinois EPA its semi-annual CSO LTCP reports as follows: (1) report due December 1, 2019; (2) report due June 1, 2020; (3) report due December 1, 2020; (4) report due June 1, 2021; and (5) report due December 1, 2021. LaSalle submitted these reports to Illinois EPA respectively, 820 days late, 632 days late, 449 days

late, 267 days late, and 90 days late. By failing to timely submit each of these five reports to Illinois EPA, LaSalle violated Special Condition No. 15 of the NPDES Permit.

24. Special Condition No. 17 of the NPDES Permit requires a complex biomonitoring reporting schedule due in a timely fashion to Illinois EPA to monitor the toxicity impact of outflow on aquatic species, pursuant to Subparts B and C of that Section, and provides as follows:

B. Testing frequency – The above tests shall be conducted using 24-hour composite samples unless otherwise authorized by the IEPA. Samples must be collected in the 18th, 12th, and 9th month prior to the expiration date of this Permit.

C. Reporting – Results shall be reported according to EPA/821-R-02-012, Section 12, Report Preparation, and shall be submitted to IEPA, Bureau of Water, Compliance Assurance Section within one week of receipt from the laboratory. Reports are due to the IEPA no later than the 16th, 13th, 10th, and 7th month prior to the expiration date of this Permit.

25. On February 23, 2022, LaSalle untimely submitted its biomonitoring reports required by Special Condition No. 17 as follows: (1) report due May 1, 2019; (2) report due August 1, 2019; (3) report due November 30, 2019; and (4) report due February 29, 2020. LaSalle submitted these reports to Illinois EPA, respectively, 1,029 days late, 937 days late, 816 days late, and 725 days late. By failing to timely submit each of these four reports to Illinois EPA, LaSalle violated Special Condition No. 17 of the NPDES Permit.

26. Special Condition No. 21 of the NPDES Permit regarding the Phosphorus Discharge Optimization Plan provides, in pertinent part, as follows:

* * *

Annual progress reports on the optimization of the existing treatment facilities shall be submitted to the Agency by March 31 of each year.

* * *

27. On February 23, 2022, LaSalle untimely submitted to Illinois EPA Phosphorus Discharge Optimization Plan annual progress reports as follows: (1) the report due March 31, 2019; (2) the report due March 31, 2020; and (3) the report due March 31, 2021. LaSalle submitted these reports to Illinois EPA, respectively, 1,149 days late, 694 days late, and 329 days late. By failing to timely submit each of these three reports to Illinois EPA, LaSalle violated Special Condition No. 21 of the NPDES Permit.

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

Every holder of an NPDES ... permit is required to comply with the monitoring, sampling, recording and reporting requirements set forth in the permit and this Chapter.

29. By failing to timely comply with the reporting requirements set forth in Special Conditions Nos. 15, 17, and 21 of the NPDES Permit, LaSalle violated Sections 305.102(b) and 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 305.102(b) and 309.102(a) and thereby also violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2022).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, CITY OF LASALLE, with respect to Count III:

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

2. Finding Respondent has violated Sections 12(f) of the Act, 415 ILCS 5/12(f) (2022), Sections 305.102(b) and 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 305.102(b) and 309.102(a), and Special Conditions Nos. 15, 17, and 21 of the NPDES Permit;

3. Ordering the Respondent to cease and desist from any further violations of Section 12(f) of the Act, 415 ILCS 5/12(f) (2022), Sections 305.102(b) and 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 305.102(b) and 309.102(a), and Special Conditions Nos. 15, 17, and 21 of the NPDES Permit;

4. Assessing against Respondent a civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation of Section 12(f) of the Act, 415 ILCS 5/12(f) (2022), Sections 305.102(b) and 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 305.102(b) and 309.102(a), and Special Conditions Nos. 15, 17, and 21 of the NPDES Permit:

5. Taxing all costs in this action including, but not limited to, attorney, expert witness, and consultant fees against Respondents; and

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

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

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

BY /s/ Stephen J. Sylvester
STEPHEN J. SYLVESTER, Chief
Environmental Bureau
Assistant Attorney General

Of Counsel

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
by KWAME RAOUL, Attorney)
General of the State of Illinois,)
)
Complainant,)
)
v.) No. 24-
)
CITY OF LASALLE,)
An Illinois municipal corporation,)
)
Respondent.)

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(f), 415 ILCS 5/12(f) (2022), Sections 304.141(a), 305.102(b), and 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 304.141(a), 309.102(a), and 305.102(b), and Section 12(a) of the Act, 415 ILCS 5/12(a) (2022), as well as violations certain conditions of its National Pollutant Discharge and Elimination System (“NPDES”) permit.
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) (2022).

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) (2022).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

KWAME RAOUL
Attorney General
State of Illinois

BY: /s/ Cara V. Sawyer

Cara V. Sawyer
Assistant Attorney General
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Dated: November 13, 2023

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB No. 24-
)	
CITY OF LASALLE,)	
An Illinois municipal corporation,)	
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Respondent.)	

STIPULATION AND PROPOSAL FOR SETTLEMENT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (“Illinois EPA”), and CITY OF LASALLE (“City” or “Respondent”), (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. (2022), and the Board’s regulations, alleged in the Complaint except as otherwise provided herein. It is the intent of the Parties to the Stipulation that it be a final adjudication of this matter.

I. STATEMENT OF FACTS

A. Parties

1. On November 13, 2023, 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 has been an Illinois municipal corporation organized and operating under the laws of the State of Illinois.

4. At all times relevant to this Complaint, Respondent has owned and operated the LaSalle Wastewater Treatment Plant – South (“WWTP-South”) located at 400 River Street, LaSalle, Illinois, which collects and treats wastewater for its residents and businesses, which it discharges into the Illinois River through its Outfall 001.

5. On November 23, 2015, Illinois EPA issued Respondent NPDES permit No. IL0029424 (“NPDES Permit”) for discharges of wastewater from the LaSalle WWTP-South. The NPDES Permit was in effect at all times relevant to this Stipulation and Proposal for Settlement.

B. Allegations of Non-Compliance

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

- Count I: Failure to maintain effluent contaminant limits within the parameters of its NPDES permit in violation of Section 12(f) of the Act, 415 ILCS 5/12(f) (2022), Sections 304.141(a) and 309.102(a) of the Illinois Pollution Control Board (“Board”) Water Pollution Regulations, 35 Ill. Adm. Code 304.141(a) and 309.102(a), and the terms and conditions of its NPDES Permit.
- Count II: Failure to maintain effluent contaminant levels in such a way as to cause, threaten, or allow water pollution in violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2022).
- Count III: Failure to comply with the reporting requirements of the NPDES Permit, in violation of Section 12(f) of the Act, 415 ILCS 5/12(f) (2022), and Sections 305.102(b) and 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 305.102(b) and 309.102(a), and NPDES Permit Special Conditions Nos. 15, 17, and 21.

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 February 23, 2022, LaSalle untimely submitted to Illinois EPA its semi-annual Combined Sewage Outfall (“CSO”) Long-Term Control Planning (“LTCP”) reports, which had been due as follows: (1) report due December 1, 2019; (2) report due June 1, 2020; (3) report due December 1, 2020; (4) report due June 1, 2021; and (5) report due December 1, 2021.

2. On February 23, 2022, LaSalle untimely submitted its biomonitoring reports required by Special Condition No. 17 as follows: (1) report due May 1, 2019; (2) report due August 1, 2019; (3) report due November 30, 2019; and (4) report due February 29, 2020.

3. On February 23, 2022, LaSalle untimely submitted to Illinois EPA Phosphorus Discharge Optimization Plan annual progress reports as follows: (1) the report due March 31, 2019; (2) the report due March 31, 2020; and (3) the report due March 31, 2021.

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. The Illinois EPA's information gathering responsibilities were hindered by the Respondent's violations thereby threatening human health and the environment.
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.
4. Maintaining contaminants within NPDES Permit levels, and submitting timely reports, are both technically practicable and economically reasonable.
5. Respondent has subsequently complied with the Act and the Board and Illinois EPA 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. Respondent failed to stay within its permitted effluent limitations. The violation began in June, 2021 and was resolved by September, 2021. Respondent further failed to timely submit to Illinois EPA multiple reports required by its NPDES Permit. The violations began March

31, 2021 and were resolved on February 23, 2022.

2. Respondent was diligent in attempting to come back into compliance with the Act, Board regulations, and applicable federal regulations, once the Illinois EPA notified it of its noncompliance.

3. The civil penalty takes into account any economic benefit realized by the Respondent as a result of avoided or delayed compliance.

4. Complainant has determined, based upon the specific facts of this matter, that a penalty of Five Thousand, Seven Hundred and Forty Dollars (\$5,740.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

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

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

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

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

V. TERMS OF SETTLEMENT

A. Penalty Payment

The Respondent shall pay a civil penalty in the sum of Five Thousand, Seven Hundred and Forty Dollars (\$5,740.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

B. Stipulated Penalties, Interest, and Default

1. If the Respondent fails to 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.

3. The stipulated penalties shall be enforceable by the Complainant and shall be in addition to, and shall not preclude the use of, any other remedies or sanctions arising from the failure to comply with this Stipulation.

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.

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

Cara V. Sawyer
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602

D. Future Compliance

1. Respondent shall comply with effluent permit limitations and timely file all future required reports.

2. In addition to any other authorities, 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.

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

E. Release from Liability

In consideration of the Respondent's payment of the \$5,740.00 penalty, its commitment to cease and desist as contained in Section V.D.4 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 on November 13, 2023. 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. Correspondence, Reports and Other Documents

Any and all correspondence, reports and any other documents required under this Stipulation, except for penalty payments, shall be submitted as follows:

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As to the Complainant

Cara V. Sawyer
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602
cara.sawyer@ilag.gov

Gabriel H. Neibergall
Assistant Counsel
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

Zane Austin
Illinois Environmental Protection Agency
Bureau of Water / Division of Water Pollution Control
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

Paul Jungles
Illinois Environmental Protection Agency
Bureau of Water / Field Operations Section
Peoria Regional Office
412 SW Washington Street, Suite D
Peoria, Illinois

As to the Respondent

James A. McPhedran
City Attorney
Meyers & Flowers, LLC
1200 Maple Drive
Peru, Illinois 61354
jim@meyers-flowers.com
csg@meyers-flowers.com

G. 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.

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. This Stipulation may be executed by the parties in one or more counterparts, all of which taken together shall constitute one and the same instrument.

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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

KWAME RAOUL
Attorney General
State of Illinois


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

JOHN J. KIM, Director
Illinois Environmental Protection Agency

BY:


STEPHEN J. SYLVESTER, Chief
Environmental Bureau
Assistant Attorney General

BY:

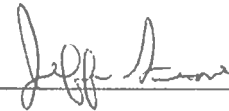

CHARLES W. GUNNARSON
Chief Legal Counsel

DATE: 11/7/23

DATE: 11/7/23

CITY OF LASALLE

BY:



ITS:

Mayor

DATE:

10/11/23