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CLERK'S OFFICE

NOV 17 2004

STATE OF ILLINOIS  
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

Lisa Madigan  
ATTORNEY GENERAL

November 15, 2004

PCB05-96

The Honorable Dorothy Gunn  
Illinois Pollution Control Board  
James R. Thompson Center, Ste. 11-500  
100 West Randolph  
Chicago, Illinois 60601

Re: ***People v. Village of North City, an Illinois municipal corporation, et al.***

Dear Clerk Gunn:

Enclosed for filing please find the original and ten copies of a NOTICE OF FILING, APPEARANCE and COMPLAINT in regard to the above-captioned matter. Please file the originals and return file-stamped copies of the documents to our office in the enclosed self-addressed, stamped envelope.

Thank you for your cooperation and consideration.

Very truly yours,

A handwritten signature in cursive script, reading "Kristen Laughridge".

Kristen Laughridge  
Environmental Bureau  
500 South Second Street  
Springfield, Illinois 62706  
(217) 782-9031

KL/pp  
Enclosures

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD NOV 17 2004**

STATE OF ILLINOIS  
Pollution Control Board

PEOPLE OF THE STATE OF )  
 ILLINOIS, )  
 )  
 Complainant, )  
 )  
 vs. )  
 )  
 VILLAGE OF NORTH CITY, an )  
 Illinois municipal corporation; )  
 LAWRENCE A. LIPE & ASSOCIATES, )  
 INC., an Illinois corporation; ALTMAN- )  
 CHARTER COMPANY, a Missouri )  
 corporation; and FURLONG )  
 EXCAVATING, INC., an Illinois )  
 corporation, )  
 )  
 Respondent. )

PCB No. 05-96  
(Enforcement)

**NOTICE OF FILING**

To: **VILLAGE OF NORTH CITY**  
an Illinois municipal corporation  
c/o Village of North City Clerk  
P.O. Drawer E  
Coello, IL 62825

**LAWRENCE A. LIPE & ASSOCIATES, INC.**  
an Illinois corporation  
c/o Lawrence A. Lipe  
901 N. DuQuoin Street  
P.O. Drawer 130  
Benton, IL 62812

**ALTMAN-CHARTER COMPANY**  
a Missouri corporation  
c/o Mark C. Goldenberg  
2227 S. State Route 157  
Edwardsville, IL 62025

**FURLONG EXCAVATING, INC.**  
an Illinois corporation  
c/o Brad D. Furlong  
R.R. 1, Box 71-C  
Kell, IL 62853-9725

PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois, a COMPLAINT, a copy of which is attached hereto and herewith served upon you. Failure to file an answer to this Complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in this 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.

FURTHER, please take notice that financing may be available, through the Illinois Environmental Facilities Financing Act, 20 ILCS 3515/1 (2002), to correct the pollution alleged in the Complaint filed in this case.


Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN,  
Attorney General of the  
State of Illinois

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

BY:

  
KRISTEN LAUGHRIDGE  
Assistant Attorney General  
Environmental Bureau

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: November 15, 2004

**CERTIFICATE OF SERVICE**

I hereby certify that I did on November 15, 2004, send by certified mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instruments entitled NOTICE OF FILING, ENTRY OF APPEARANCE and COMPLAINT:

To: **VILLAGE OF NORTH CITY**  
**an Illinois municipal corporation**  
c/o Village of North City Clerk  
P.O. Drawer E  
Coello, IL 62825

and the original and ten copies by First Class Mail with postage thereon fully prepaid of the same foregoing instrument(s):

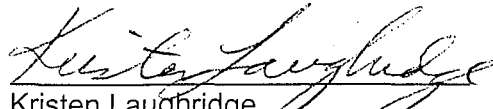
To: Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
Suite 11-500  
100 West Randolph  
Chicago, Illinois 60601

A copy was also sent by First Class Mail with postage thereon fully prepaid to:

**LAWRENCE A. LIPE & ASSOCIATES, INC.**  
**an Illinois corporation**  
c/o Lawrence A. Lipe  
901 N. DuQuoin Street  
P.O. Drawer 130  
Benton, IL 62812

**ALTMAN-CHARTER COMPANY**  
**a Missouri corporation**  
c/o Mark C. Goldenberg  
2227 S. State Route 157  
Edwardsville, IL 62025

**FURLONG EXCAVATING, INC.**  
**an Illinois corporation**  
c/o Brad D. Furlong  
R.R. 1, Box 71-C  
Kell, IL 62853-9725

  
Kristen Laughridge  
Assistant Attorney General

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 corporation; and FURLONG )  
 EXCAVATING, INC., an Illinois )  
 corporation, )  
 )  
 Respondent. )

PCB No. 05-96  
(ENFORCEMENT)


ENTRY OF APPEARANCE

On behalf of the Complainant, PEOPLE OF THE STATE OF ILLINOIS, KRISTEN LAUGHRIDGE, Assistant Attorney General of the State of Illinois, hereby enters her appearance as attorney of record.

Respectfully submitted,

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

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

BY:   
KRISTEN LAUGHRIDGE  
Environmental Bureau  
Assistant Attorney General

500 South Second Street  
Springfield, Illinois 62706  
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Dated: November 15, 2004

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS  
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PEOPLE OF THE STATE OF ILLINOIS, )  
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 Complainant, )  
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 VILLAGE OF NORTH CITY, an Illinois )  
 municipal corporation; LAWRENCE A. LIPE & )  
 ASSOCIATES, INC., an Illinois corporation; )  
 ALTMAN-CHARTER COMPANY, a Missouri )  
 corporation; and FURLONG EXCAVATING, )  
 INC., an Illinois corporation; )  
 )  
 Respondents. )

PCB NO. 05-96  
(Enforcement)

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondents, VILLAGE OF NORTH CITY, LAWRENCE A. LIPE & ASSOCIATES, INC., ALTMAN-CHARTER COMPANY, and FURLONG EXCAVATING, INC., as follows:

COUNT I  
1992 CONSTRUCTION VIOLATIONS

1. This Complaint is brought by the Attorney General on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2002).

2. The 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 (2002), and charged, *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board ("Board").

3. This Complaint is brought pursuant to Section 31 of the Act, 415 ILCS 5/31 (2002), after providing the Respondents with notice and the opportunity for a meeting with the Illinois EPA.

4. The Village of North City ("Village") is an Illinois municipal corporation, located in Franklin County, Illinois. The Village's public water supply provides water to approximately 825

people through approximately 320 direct service connections. The Village purchases finished water from the nearby City of Christopher. The water is stored in an elevated tower before being pumped to the distribution system. The Village also owns and operates a wastewater collection system connected to the City of Christopher's wastewater treatment plant.

5. Lawrence A. Lipe & Associates, Inc. ("Lipe & Associates") is an Illinois corporation. At all times relevant to this Complaint, the Village has employed Lipe & Associates to serve as a consulting engineer to design and oversee construction of its drinking water and wastewater systems.

6. On July 8, 1992, the Illinois EPA granted construction permit no. 1992-IA-0879 authorizing the Village to construct a new sewer system pursuant to the final plans and specifications prepared by Lipe & Associates.

7. Altman-Charter Company ("Altman-Charter") is a Missouri corporation in good standing in the State of Illinois. The Village employed Altman-Charter to construct the new sewer system according to the 1992 permit.

8. Section 12 of the Illinois Environmental Protection Act, 415 ILCS 5/12 (2002), provides, in pertinent part:

No person shall:

\* \* \*

(c) . . . . construct or install any sewer or sewage treatment facility . . . .  
without a permit granted by the Agency.

\* \* \*

9. Section 309.202(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 309.202(a), provides:

Except for treatment works or wastewater sources which have or will have discharges for which NPDES Permits are required, and for which NPDES Permits have been issued by the Agency:

a) No person shall cause or allow the construction of any new treatment works, sewer or wastewater source or cause or allow the modification of any existing treatment works, sewer or wastewater source without a

construction permit issued by the Agency. . . .

10. On May 23 and 28, 2003, the Illinois EPA inspected a water main construction site in the City of Christopher. During this inspection, the Illinois EPA observed a sewage lift station and sewer force main operated by the village and located in the vicinity of a water main being installed by the City of Christopher. Subsequent investigation determined that this lift station and force main had been constructed during the Village's 1992 project. However, this lift station and force main were not included within the 1992 permit's final plans and specifications prepared by Lipe & Associates.

11. Subsequent to the July 8, 1992, issuance of Illinois EPA construction permit no. 1992-IA-0879, on a date better known to the Respondents, the Village, Lipe & Associates, and Altman-Charter caused or allowed the construction or installation of a sewage lift station and sewer force main without a permit from the Illinois EPA.

12. By constructing or installing a lift station and force main without a permit granted by the Illinois EPA, the Village, Lipe & Associates, and Altman-Charter have each violated Section 12(c) of the Act, 415 ILCS 5/12(c) (2002), and Section 309.202(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 309.202(a).

#### **PRAYER FOR RELIEF**

WHEREFORE, Complainant, the People of The State of Illinois, respectfully request that the Board enter an order against Respondents, VILLAGE OF NORTH CITY, LAWRENCE A. LIPE & ASSOCIATES, INC., and ALTMAN-CHARTER COMPANY:

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

B. Finding that Respondents have violated the Act and regulations as alleged herein;



C. Ordering Respondents to cease and desist from any further violations of the Act and associated regulations;

D. Assessing against Respondents a civil penalty of fifty thousand dollars (\$50,000) for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000) for each day during which each violation has continued thereafter;

E. Awarding to Complainant its costs and reasonable attorney's fees; and

F. Granting such other relief as the Board may deem appropriate.

**COUNT II**  
**1999 CONSTRUCTION VIOLATIONS**

1- 6. Complainant repeats and realleges paragraphs 1 through 6 of Count I as paragraphs 1 through 6 of Count II.

7. Section 15(a) of the Act, 415 ILCS 5/15(a) (2002), provides:

(a) Owners of public water supplies, their authorized representative, or legal custodians, shall submit plans and specifications to the Agency and obtain written approval before construction of any proposed public water supply installations, changes, or additions is started. Plans and specifications shall be complete and of sufficient detail to show all proposed construction, changes, or additions that may affect sanitary quality, mineral quality, or adequacy of the public water supply; and, where necessary, said plans and specifications shall be accompanied by supplemental data as may be required by the Agency to permit a complete review thereof.

8. Section 18(a) of the Illinois Environmental Protection Act, 415 ILCS 5/18(a) (2002), provides, in pertinent part:

(a) No person shall:

\* \* \*

(2) Violate regulations or standards adopted by the Agency pursuant to Section 15(b) of this Act or by the Board under this Act.

\* \* \*

9. Section 602.101(b) of the Board's Public Water Supplies Regulations, 35 Ill.

Adm. Code 602.101(b), provides:

- b) All work performed on a public water supply shall be in accordance with accepted engineering practices.

10. Section 653.119(b)(1)(A) of the Illinois EPA's Public Water Supplies Rules, 35 Ill. Adm. Code Section 653.119(b)(1)(A), provides that "water mains shall be laid at least ten feet horizontally from any existing or proposed drain, storm sewer, sanitary sewer, combined sewer or sewer service connection." This horizontal separation of water and sewer lines is an accepted engineering practice.

11. On September 18, 1998, the Illinois EPA granted construction permit no. FY1999-0485 authorizing the Village to install 7,200 lineal feet of 6-inch water main and 16,500 lineal feet of 4-inch water main pursuant to the final plans and specifications prepared by Lipe & Associates.

12. Furlong Excavating, Inc. ("Furlong"), is an Illinois corporation. The Village employed Furlong to install the water mains according to the 1999 permit.

13. On May 23 and 28, 2003, the Illinois EPA inspected a water main construction site in the City of Christopher. During this inspection, the Illinois EPA observed a sewage lift station and sewer force main operated by the village and located in the vicinity of a water main being installed by the City of Christopher. Subsequent investigation determined that this lift station and force main had been constructed during the Village's 1992 project. However, this lift station and force main were not included within the 1992 permit's final plans and specifications prepared by Lipe & Associates.

14. The Illinois EPA's investigation also determined that the sewage lift station and sewer force main were not included within the 1999 permit's final plans and specifications prepared by Lipe & Associates for the installation of 7,200 lineal feet of 6-inch water main and 16,500 lineal feet of 4-inch water main.

15. On May 23 and 28, 2003, the Illinois EPA observed that the Village's sewage

force main and 6-inch water main were located next to each other and only 24 inches apart.

16. Prior to the September 18, 1999, issuance of Illinois EPA construction permit no. FY1999-0485, on a date better known to the Respondents, the Village and Lipe & Associates, submitted to the Illinois EPA plans and specifications that were not complete and of sufficient detail to show all proposed construction, changes, or additions that may affect the sanitary quality, mineral quality, or adequacy of the public water supply.

17. By failing to submit complete plans and specifications for the 1999 water main permit, the Village and Lipe & Associates have violated Section 15(a) of the Act, 415 ILCS 5/15(a) (2002).

18. Subsequent to the September 18, 1999, issuance of Illinois EPA construction permit no. FY1999-0485, on a date better known to the Respondents, the Village, Lipe & Associates, and Furlong caused or allowed the construction or installation of a water main without complying with the Agency standard and the accepted engineering practice of maintaining ten feet of horizontal separation between sewer and water lines.

19. By constructing or installing the 6-inch water main without complying with the Agency standard and the accepted engineering practice of maintaining ten feet of horizontal separation between sewer and water lines, the Village, Lipe & Associates, and Furlong have violated Section 602.101(b) of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 602.101(b), and Section 653.119(b)(1)(A) of the Illinois EPA's Public Water Supplies Rules, 35 Ill. Adm. Code Section 653.119(b)(1)(A).

20. By violating regulations or standards adopted by the Agency pursuant to Section 15(b) of this Act or by the Board under this Act, the Village, Lipe & Associates, and Furlong have thereby violated Section 18(a)(2) of the Act, 415 ILCS 5/18(a)(2) (2002).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, the People of The State of Illinois, respectfully request that the Board enter an order against Respondents, VILLAGE OF NORTH CITY, LAWRENCE A. LIPE & ASSOCIATES, INC., and FURLONG EXCAVATING, INC.:

- A. Authorizing a hearing in this matter at which time the Respondents will be required to answer the allegations herein;
- B. Finding that Respondents have violated the Act and regulations as alleged herein;
- C. Ordering Respondents to cease and desist from any further violations of the Act and associated regulations;
- D. Assessing against Respondents a civil penalty of fifty thousand dollars (\$50,000) for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000) for each day during which each violation has continued thereafter;
- E. Awarding to Complainant its costs and reasonable attorney's fees; and
- F. Granting such other relief as the Board may deem appropriate.

Respectfully submitted,

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

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

BY: \_\_\_\_\_

THOMAS DAVIS, Chief  
Environmental Bureau  
Assistant Attorney General

Of Counsel:  
KRISTEN LAUGHRIDGE  
Assistant Attorney General  
500 South Second Street  
Springfield, Illinois 62706  
217/782-7968  
Dated: 11/15/04