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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD JAN 20 2006

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB No. 06-134
)
VILLAGE OF HAINESVILLE, an Illinois) (Enforcement-Public
municipal corporation,) Water Supply)
)
Respondent.)

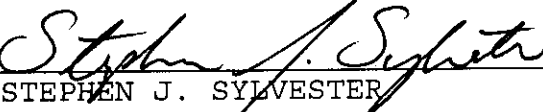
NOTICE OF FILING

TO: Adam B. Simon
Ancel, Glink, Diamond, Bush, DiCianni & Rolek, P.C.
Attorney for Respondent
415 West Washington Street
Waukegan, Illinois 60085

PLEASE TAKE NOTICE that I have today filed the Complaint, Stipulation and Proposal for Settlement, and Motion to Request Relief from Hearing Requirement with the Office of the Clerk of the Illinois Pollution Control Board, a true and correct copy of which is attached hereto and herewith served upon you. Pursuant to 35 Ill. Adm. Code 103.204(f), I am required to state that 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.

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

BY:


STEPHEN J. SYLVESTER
Assistant Attorney General
Environmental Bureau
188 West Randolph St., Suite 2001
Chicago, Illinois 60601
(312) 814-2087

Date: January 20, 2006

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

JAN 20 2006

PEOPLE OF THE STATE OF ILLINOIS,)

Complainant,)

v.)

VILLAGE OF HAINESVILLE, an Illinois)
municipal corporation,)

Respondent.)

STATE OF ILLINOIS
Pollution Control Board

PCB No. 06-134

(Enforcement-Public
Water Supply)

COMPLAINT

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

COUNT I

CONSTRUCTION WITHOUT A PERMIT

1. This count is brought by LISA MADIGAN, Attorney General
of the State of Illinois, on her own motion and at the request
of the Illinois Environmental Protection Agency ("Illinois EPA")
pursuant to Section 31 of the Environmental Protection Act,
("Act"), 415 ILCS 5/31 (2004).

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 (2004), and is charged *inter alia*, with the duty of
enforcing the Act.

3. At all times relevant to this Complaint, Respondent VILLAGE OF HAINESVILLE ("Hainesville") was and is an Illinois municipal corporation, duly authorized and operating under the laws of the State of Illinois. Hainesville is located in Lake County, Illinois.

4. At all times relevant to this complaint, Hainesville was the owner, operator, and official custodian of its potable water supply and distribution system ("Hainesville Water Supply").

5. The Hainesville Water Supply maintains two wells used for obtaining raw water for its potable water distribution system. Raw water from both wells is chlorinated for disinfection, fluoridated and stored in a 93,000 gallon ground storage tank, from which finished water is pumped to the distribution system and/or a 400,000 gallon elevated storage tank. The Hainesville Water Supply serves a population of approximately 793 people.

6. Respondent's operation of the potable water supply is subject to the Act and the Rules and Regulations promulgated by the Illinois Pollution Control Board ("Board") and the Illinois EPA. The Board's regulations for public water supplies are found in title 35, Subtitle F, Chapter I of the Illinois Administrative Code ("Board Public Water Supply Regulations"), and the Illinois EPA rules and regulations for public water

supplies are found in Title 35, Subtitle F, Chapter II of the Illinois Administrative Code ("Illinois EPA Public Water Supply Regulations").

7. Section 15(a) of the Act, 415 ILCS 5/15(a) (2004), provides as follows:

(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 Act, 415 ILCS 5/18(a) (2004), provides as follows:

a. No person shall:

1. Knowingly cause, threaten or allow the distribution of water from any public water supply of such quality or quantity as to be injurious to human health; or
2. Violate regulations or standards adopted by the Agency pursuant to Section 15 (b) of this Act or by the Board under this Act; or
3. Construct, install or operate any public water supply without a permit granted by the Agency, or in violation of any condition imposed by such a permit.

9. Section 602.101(a) of the Board Public Water Supply Regulations, 35 Ill. Adm. Code 602.101(a), provides as follows:

- (a) No person shall cause or allow the construction of any new public water supply installation or cause or allow the change of or addition to any existing public water supply, without a construction permit issued by the Environmental Protection Agency (Agency). Public water supply installation, change, or addition shall not include routine maintenance, service pipe connections, hydrants and valves, or replacement of equipment, pipe, and appurtenances with equivalent equipment, pipe, and appurtenances.

10. Section 652.101(a) of the Illinois EPA Public Water Supply Regulations, 35 Ill. Adm. Code 652.101(a), provides as follows:

Construction Permit Requirements

- a) Construction permits shall be obtained by the official custodian of a community water supply prior to beginning construction of any proposed community water supply and prior to all alterations, changes or additions to an existing community water supply which may affect the sanitary quality, mineral quality or adequacy of the supply including changes pursuant to 35 Ill. Adm. Code 653.115.

11. Section 602.116 of the Board Public Water Supply Regulations, 35 Ill. Adm. Code 602.116, provides as follows:

Requirement for As-Built Plans

Whenever a supply has been constructed without a construction permit, the Agency may require submission of as-built plans prepared by a qualified person as described in Section 602.105(c). Any deficiencies requiring correction as determined by the Agency must be corrected within a time limit set by the Agency. This does not relieve the owner or official custodian

from any liability for construction of the supply without a permit.

12. Sections 3.315 and 3.365 of the Act, 415 ILCS 5/3.315 and 3.365 (2004), respectively, provide the following definitions:

"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.

"PUBLIC WATER SUPPLY" means all mains, pipes and structures through which water is obtained and distributed to the public, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use and which serve at least 15 service connections or which regularly serve at least 25 persons at least 60 days per year. A public water supply is either a "community water supply" or a "non-community water supply".

13. Respondent is a "person" as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2004).

14. The Hainesville Water Supply is a "Public Water Supply" ("PWS") as that term is defined in Section 3.365 of the Act, 415 ILCS 5/3.365 (2004).

15. Some time prior to May 25, 2004, on a date better known to Respondent, Respondent caused or allowed the

installation of a fluoride feed system at Well #1 at the Hainesville PWS, without submission of any plans and specifications to the Illinois EPA and without an Illinois EPA-issued construction permit.

16. In addition, some time prior to May 25, 2004, on a date better known to Respondent, Respondent caused or allowed the construction and completion of Well #2 at the Hainesville PWS, without submission of any plans and specifications to the Illinois EPA and without an Illinois EPA-issued construction permit.

17. On March 23, 2005, Hainesville, applied for an as-built construction permit for the installation of its fluoride feed system at Well #1 and the completion and installation of Well #2 at its PWS, and submitted, for the first time, plans and specifications to the Illinois EPA. On September 9, 2005, the Illinois EPA approved Respondent's as-built plans for the improvements to Wells #1 and #2.

18. Respondent, by its actions as alleged herein, has violated Sections 15(a) and 18(a) of the Act, 415 ILCS 5/15(a) and 18(a) (2004), and Section 602.101(a) of the Board Regulations for Public Water Supplies and Section 652.101(a) of the Illinois EPA Public Water Supply Regulations, 35 Ill. Adm. Code 602.101(a) and 652.101(a).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, VILLAGE OF HAINESVILLE, on Count I:

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

2. Finding that the Respondent has violated Sections 15(a) and 18(a) of the Act, 415 ILCS 5/15(a) and 18(a) (2004), and 35 Ill. Adm. Code 602.101 and 652.101(a);

3. Ordering the Respondent to cease and desist from any further violations of Sections 15(a) and 18(a) of the Act, 415 ILCS 5/15(a) and 18(a) (2004), and 35 Ill. Adm. Code 602.101 and 652.101(a);

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

5. Ordering the Respondent to pay all costs, pursuant to Section 42(f) of the Act, including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

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

COUNT II

THREATENING A CROSS CONNECTION

1-10. Complainant realleges and incorporates by reference herein paragraphs 1 through 6, paragraph 8, and paragraphs 12 through 14 of Count I as paragraphs 1 through 10 of this Count II.

11. Section 602.115(a) of the Board Public Water Supply Regulations, 35 Ill. Adm. Code 602.115(a), provides as follows:

Design, Operation, and Maintenance Criteria

- a) The Agency may adopt criteria in rules for the design, operation, and maintenance of public water supply facilities as necessary to insure safe, adequate, and clean water. These criteria shall be revised from time to time to reflect current engineering judgment and advances in the state of the art.

12. Pursuant to Section 602.115(a) of the Board Public Water Supply regulations, 35 Ill. Adm. Code 602.115(a), the Illinois EPA adopted the Great Lakes Upper Mississippi River Board of State Sanitary Engineers' Recommended Standards for Water Works ("Recommended Standards for Water Works").

13. Section 607.104 of the Board Public Water Supply Regulations, 35 Ill. Adm. Code 607.104, provides, in pertinent part, as follows:

Cross Connections

* * *

- b) There shall be no arrangement or connection by which an unsafe substance may enter a supply.
- c) Control of all cross-connections to a supply is the responsibility of the owner or official custodian of the supply. . . .

* * *

14. Section 7.0.6 of the Recommended Standards for Water Works, titled, Overflow, provides, in pertinent part, as follows:

All water storage structures shall be provided with an overflow which is brought down to an elevation between 12 and 24 inches above the ground surface. . . .

15. From at least May 25, 2004 through November 2004, on dates better known to Respondent, Respondent failed to provide a distance of between 12 and 24 inches between its finished water storage tank overflow pipe and the ground.

16. By failing to provide a distance of between 12 and 24 inches between its finished water storage tank overflow pipe and the ground, Respondent created an arrangement whereby an unsafe substance could enter its finished water supply, thereby threatening a cross connection.

17. By its actions alleged herein, Respondent violated Section 18(a) of the Act, 415 ILCS 5/18(a) (2004), and Section 607.104 of the Board Public Water Supply Regulations, 35 Ill. Adm. Code 607.104, and the Recommended Standards for Water Works 7.0.6.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, VILLAGE OF HAINESVILLE, on Count II:

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

2. Finding that the Respondent has violated Section 18(a) of the Act, 415 ILCS 5/18(a) (2004), and Section 607.104 of the Board Public Water Supply Regulations, 35 Ill. Adm. Code 607.104, and the Recommended Standards for Water Works 7.0.6.;

3. Ordering the Respondent to cease and desist from any further violations of Section 18(a) of the Act, 415 ILCS 5/18(a) (2004), and Section 607.104 of the Board Public Water Supply Regulations, 35 Ill. Adm. Code 607.104, and the Recommended Standards for Water Works 7.0.6.;

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

5. Ordering the Respondent to pay all costs, pursuant to Section 42(f) of the Act, including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

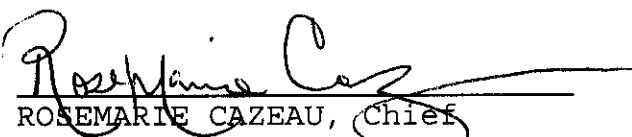
6. Granting such other relief as the Board deems appropriate and just.

PEOPLE OF THE STATE OF ILLINOIS,

LISA MADIGAN,
Attorney General of the State
of Illinois

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

BY:


ROSEMARIE CAZEAU, Chief
Environmental Bureau
Assistant Attorney General

OF COUNSEL:

STEPHEN J. SYLVESTER
Assistant Attorney General
Environmental Bureau
188 W. Randolph Street, 20th Floor
Chicago, IL 60601
(312) 814-2087

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

JAN 20 2006

PEOPLE OF THE STATE OF ILLINOIS,

)

STATE OF ILLINOIS
Pollution Control Board

Complainant,

)

v.

)

PCB No.

06-134

VILLAGE OF HAINESVILLE, an Illinois
municipal corporation,

)

(Enforcement-Public
Water Supply)

Respondent.

)

MOTION TO REQUEST RELIEF FROM HEARING REQUIREMENT

NOW COMES the Complainant, PEOPLE OF THE STATE OF ILLINOIS,
by LISA MADIGAN, Attorney General of the State of Illinois, and
requests relief from the hearing requirement in the above-
captioned matter. In support thereof, the Complainant states as
follows:

1. On January 20, 2006 a Complaint was filed with the
Illinois Pollution Control Board ("Board") in this matter. On
January 20, 2006, a Stipulation and Proposal for Settlement was
filed with the Board.

2. Section 31(c)(2) of the Illinois Environmental
Protection Act ("Act"), 415 ILCS 5/31(c)(2) (2004), effective
August 1, 1996, allows the parties in certain enforcement cases
to request relief from the mandatory hearing requirement where
the parties have submitted to the Board a stipulation and
proposal for settlement.

3. Section 31(c)(2) of the Act, 415 5/31(c)(2) (2004),
provides as follows:

Notwithstanding the provisions of subdivision (1) of this subsection (c), whenever a complaint has been filed on behalf of the Agency or by the People of the State of Illinois, the parties may file with the Board a stipulation and proposal for settlement accompanied by a request for relief from the requirement of a hearing pursuant to subdivision (1). Unless the Board, in its discretion, concludes that a hearing will be held, the Board shall cause notice of the stipulation, proposal and request for relief to be published and sent in the same manner as is required for hearing pursuant to subdivision (1) of this subsection. The notice shall include a statement that any person may file a written demand for hearing within 21 days after receiving the notice. If any person files a timely written demand for hearing, the Board shall deny the request for relief from a hearing and shall hold a hearing in accordance with the provisions of subdivision (1).

4. No hearing is currently scheduled in the instant case.


5. The Complainant requests the relief conferred by Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2004).

WHEREFORE, the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, requests relief from the requirement of a hearing pursuant to 415 ILCS 5/31(c)(2) (2002).

Respectfully submitted,

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

BY:


STEPHEN J. SYLVESTER
Assistant Attorney General
Environmental Bureau North
188 West Randolph St., 20th Floor
Chicago, Illinois 60601
312-814-2087

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD JAN 20 2006

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB No. <u>06-134</u>
)	
VILLAGE OF HAINESVILLE, an Illinois)	(Enforcement-Public
municipal corporation,)	Water Supply)
)	
Respondent.)	

STIPULATION AND PROPOSAL FOR SETTLEMENT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, the Illinois Environmental Protection Agency ("Illinois EPA"), and the VILLAGE OF HAINESVILLE ("Respondent"), 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. The parties agree that the statement of facts contained herein represents a fair summary of the evidence and testimony which would be introduced by the parties if a hearing were held. The parties further stipulate that this statement of facts is made and agreed upon for purposes of settlement only and that neither the fact that a party has entered into this Stipulation, nor any of the facts stipulated herein, shall be introduced into evidence in any other proceeding regarding the claims asserted in the Complaint except as otherwise provided

herein. If the Board approves and enters this Stipulation, Respondent agrees to be bound by the Stipulation and Board Order and not to contest their validity in any subsequent proceeding to implement or enforce their terms.

I. JURISDICTION

The Board has jurisdiction of the subject matter herein and of the parties consenting hereto pursuant to the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/1 *et seq.* (2004).

II. AUTHORIZATION

The undersigned representatives for each party 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.

III. STATEMENT OF FACTS

A. Parties

1. On January 20, 2006, a Complaint was filed on behalf of the People of the State of Illinois by Lisa Madigan, Attorney General of the State of Illinois, on her own motion and upon the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2004), 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 (2004).

3. At all times relevant to the Complaint, Respondent was and is an Illinois municipal corporation duly authorized and operating under the laws of the State of Illinois.

B. Site Description

1. At all times relevant to the Complaint, Respondent owned and operated a public water supply ("PWS") facility located in the Village of Hainesville, Lake County, Illinois ("site").

2. Respondent's PWS maintains two wells used for obtaining raw water for its potable water distribution system. Raw water from both wells is chlorinated for disinfection, fluoridated and stored in a 93,000 gallon ground storage tank, from which finished water is pumped to the distribution system and/or a 400,000 gallon elevated storage tank. Respondent's Water Supply serves a population of approximately 793 people.

C. Allegations of Non-Compliance

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

Count I: CONSTRUCTION WITHOUT A PERMIT, in violation of Sections 15(a) and 18(a) of the Act, 415 ILCS 5/15(a) and 18(a) (2004), and 35 Ill. Adm. Code 602.101 and 652.101(a).

Count II: THREATENING A CROSS CONNECTION, in violation of Section 18(a) of the Act, 415 ILCS 5/18(a) (2004), 35 Ill. Adm. Code 607.104, and the Recommended Standards for Water Works 7.0.6.

D. 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 III.C herein, and this Stipulation shall not be interpreted as including such admission.

E. Compliance Activities to Date

1. In November 2004, Respondent provided a distance of between 12 and 24 inches between its finished water storage tank overflow pipe and the ground.

2. On September 9, 2005, the Illinois EPA accepted Respondent's as-built plans for the improvements at its PWS, which were the basis of the Complaint filed in this matter.

IV. APPLICABILITY

This Stipulation shall apply to and be binding upon the Complainant and the Respondent, and any officer, trustee, agent, or employee of the Respondent, as well as any successors or

assigns of the Respondent. The Respondent shall not raise as a defense to any enforcement action taken pursuant to this Stipulation the failure of any of its officers, trustees, agents, employees or successors or assigns to take such action as shall be required to comply with the provisions of this Stipulation.

V. COMPLIANCE WITH OTHER LAWS AND REGULATIONS

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, 35 Ill. Adm. Code, Subtitles A through H.

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

Section 33(c) of the Act, 415 ILCS 5/33(c)(2004), 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 state the following:

1. The impact to the public resulting from Respondent's noncompliance was that the Illinois EPA and the public were not privy to information that is important to ensuring the quality of drinking water distributed to the public. Moreover, the quality of the potable water delivered to the users of the system could have been compromised.

2. There is social and economic benefit to the Respondent's PWS facility.

3. Operation of the Respondent's PWS facility was suitable for the area in which it occurred.

4. Obtaining a permit prior to construction at the site and compliance with its terms is both technically practicable and economically reasonable.

5. Respondent has subsequently complied with the Act and the Board Regulations.

VII. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h) (2004), 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; and
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.

In response to these factors, the parties state as follows:

1. The Respondent failed to obtain a permit for construction site activities prior to beginning construction activities at the site, as well as its failure to maintain a gap of between 12 and 24 inches between the end of its overflow pipe on its 93,000 gallon ground storage tank and the ground itself. The overflow pipe violation began on or around June 1, 2004, and was resolved in November 2004. The construction permit violation began on or around September 2001 and was resolved on September 9, 2005 with the Illinois EPA's acceptance of the as-built construction plans.

2. Respondent allowed approximately three and a half years to pass without submitting a construction permit application to the Illinois EPA. From the time Respondent received notice of the violation from the Illinois EPA, on October 29, 2004, Respondent did not submit an as-built construction permit application until March 23, 2005. Respondent was diligent in correcting the storage tank overflow pipe problem. Once the Illinois EPA notified Respondent of its noncompliance, it resolved the matter within thirty days.

3. Respondent's economic benefit from noncompliance was nominal, and the penalty obtained includes any economic benefit received.

4. Complainant has determined, based upon the specific facts of this matter, that a penalty of Three Thousand Dollars (\$3,000.00) 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. Respondent did not meet the requirements of Section 42(h)(6) of the Act, 415 ILCS 5/42(h)(6) (2004).

7. The Respondent is not performing a supplemental environmental project pursuant to Section 42(h)(7) of the Act, 415 ILCS 5/42(h)(7) (2004).

VIII. TERMS OF SETTLEMENT

A. Penalty Payment

1. The Respondent shall pay a civil penalty in the sum of Three Thousand Dollars (\$3,000.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation. The Respondent stipulates that payment has been tendered to Respondent's attorney of record in this matter in a form acceptable to that attorney. Further, Respondent stipulates that said attorney has been directed to make the penalty payment

on behalf of Respondent, within thirty (30) days from the date the Board adopts and accepts this Stipulation, in a manner prescribed below. The penalty described in this Stipulation shall be paid via a Village Of Hainesville check payable to the Illinois EPA, designated to the Illinois Environmental Protection Trust Fund and submitted to:

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

The name and number of the case and Respondent's Federal Employer Identification Number (FEIN), shall appear on the check. A copy of the Village Of Hainesville check and any transmittal letter shall be sent to:

Stephen J. Sylvester
Assistant Attorney General
Environmental Bureau
188 W. Randolph St., 20th Floor
Chicago, Illinois 60601

2. Pursuant to Section 42(g) of the Act, 415 ILCS 5/42(g) (2004), interest shall accrue on any payment not paid within the time period prescribed above at the maximum rate allowable under Section 1003(a) of the Illinois Income Tax Act, 35 ILCS 5/1003 (2004). Interest on any unpaid payment shall begin to accrue from the date the payment is due and continue to accrue until the date payment is received. When partial payment(s) are made,

such partial payment shall be first applied to any interest on unpaid payment then due and owing. All interest on payment owed shall be paid by certified check, money order or electronic funds transfer, payable to the Illinois EPA, designated to the Illinois Environmental Protection Trust Fund and delivered to the address and in the manner described above.

3. For purposes of payment and collection, Respondent may be reached at the following address:

Ted Mueller, Mayor
Village of Hainesville
100 N. Hainesville Road
Hainesville, Illinois 60030

Adam B. Simon, Village Attorney
Ancel, Glink, Diamond, Bush, DiCianni & Rolek
415 W. Washington Street, Suite 202
Waukegan, Illinois 60085

4. In the event of default of this Section VIII.A, the Complainant shall be entitled to all available relief including, but not limited to, reasonable costs of collection and reasonable attorney's fees.

B. Future Use

Notwithstanding any other language in this Stipulation to the contrary, and in consideration of the mutual promises and conditions contained in this Stipulation, including the Release from Liability contained in Section VIII.D, below, the Respondent hereby agrees that 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 promulgated thereunder for all violations alleged in the Complaint in this matter, for purposes of Section 39(a) and (i) and/or 42(h) of the Act, 415 ILCS 5/39(a) and(i) and/or 5/42(h) (2004). Further, Respondent agrees to waive any rights to contest, in any subsequent enforcement action or permit proceeding, any allegations that these alleged violations were adjudicated.

C. Cease and Desist

The Respondent shall cease and desist from future violations of the Act and Board Regulations that were the subject matter of the Complaint as outlined in Section III.C ("Allegations of Non-Compliance") of this Stipulation.

D. Release from Liability

In consideration of the Respondent's payment of the \$3,000.00 penalty and any specified costs and accrued interest, to Cease and Desist as contained in Section VIII.C and upon the Pollution Control Board's acceptance and approval of the terms of this Stipulation and Proposal for Settlement, the Complainant releases, waives and discharges the Respondent, and any officer, trustee, agent, or employee of the Respondent, as well as any successors or assigns of the Respondent from any further

liability or penalties for 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 January 20, 2006. 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 or the Illinois EPA 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.

E. Right of Entry

In addition to any other authority, the Illinois EPA, its employees and representatives, and the Attorney General, her agents 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 carrying out inspections. In conducting such inspections, the Illinois EPA, its employees and representatives, and the Attorney General, her employees and representatives may take photographs, samples, and collect information, as they deem necessary.

F. Enforcement of Board Order

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

2. Respondent agrees that notice of any subsequent proceeding to enforce the Board Order approving and accepting this Stipulation and Proposal for Settlement may be made by mail and waives any requirement of statutory service of process.

3. The parties agree that, if the Board does not approve and accept this Stipulation and Proposal for Settlement, then neither party is bound by the terms herein.

4. It is the intent of the Complainant and Respondent that the provisions of this Stipulation and Proposal for Settlement and any Board Order accepting and approving such shall be severable, and should any provision be declared by a court of competent jurisdiction to be inconsistent with state or federal law, and therefore unenforceable, the remaining clauses shall remain in full force and effect.

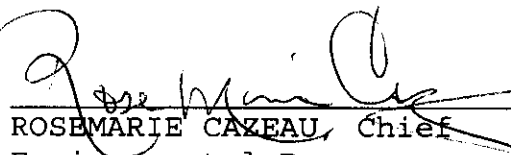
WHEREFORE, Complainant and Respondent request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

PEOPLE OF THE STATE OF ILLINOIS,

LISA MADIGAN
Attorney General
State of Illinois

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

BY:



ROSEMARIE CAZEAU, Chief
Environmental Bureau
Assistant Attorney General

DATE:

12/30/05

ILLINOIS ENVIRONMENTAL PROTECTION
AGENCY

BY:


ROBERT A. MESSINA
Chief Legal Counsel

DATE:

12/29/05

VILLAGE OF HAINESVILLE

BY:

Name: TED MUELLER
Title: Mayor

DATE:

ATTEST:

Name: KATHY METZLER
Title: Village Clerk

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

PEOPLE OF THE STATE OF ILLINOIS,

LISA MADIGAN
Attorney General
State of Illinois

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

BY: _____
ROSEMARIE CAZEAU, Chief
Environmental Bureau
Assistant Attorney General

DATE: _____

ILLINOIS ENVIRONMENTAL PROTECTION
AGENCY

BY: _____
ROBERT A. MESSINA
Chief Legal Counsel

DATE: _____

VILLAGE OF HAINESVILLE

BY: *Ted Mueller*
Name: TED MUELLER
Title: Mayor

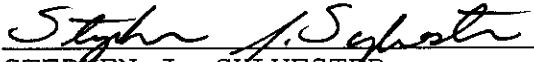
DATE: 1/9/06

ATTEST: *Kathy Metzler*
Name: KATHY METZLER
Title: Village Clerk



CERTIFICATE OF SERVICE

It is hereby certified that true and correct copies of the Complaint, Stipulation and Proposal for Settlement, Motion to Request Relief from Hearing Requirement, and Notice of Filing were sent by certified mail with return receipt requested to the person listed on the Notice of Filing on January 20, 2006.

BY: 
STEPHEN J. SYLVESTER