

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB No. 07- 47
)	(Enforcement-Water)
CITY OF PEKIN,)	
an Illinois municipal corporation,)	
)	
Respondent.)	

NOTICE OF FILING

To: Burt L. Dancey
Attorney for City of Pekin
Elliff, Keyser, Oberle & Dancey, P.C.
109 S. Fourth Street
P.O. Box 873
Pekin, IL 61555-0873

Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph Street, Ste. 11-500
Chicago, Illinois 60601

Carol Webb, Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274

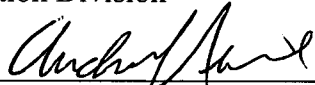
PLEASE TAKE NOTICE that on this day I filed with the Office of the Clerk of the Illinois Pollution Control Board an original and nine copies of the Stipulation and Proposal for Settlement, an Agreed Motion for Relief from the Hearing Requirements, Notice of Filing, and a Certificate of Service, copies of which are attached herewith and served upon you.

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: 
ANDREW J. NICHOLAS

Electronic Filing - Received, Clerk's Office, October 22, 2009

Assistant Attorney General
Environmental Bureau
69 W. Washington St., Suite 1800
Chicago, Illinois 60602
312/814-2069

DATE: October 22, 2009

THIS FILING IS SUBMITTED ON RECYCLED PAPER

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB No. 07- 47
)	(Enforcement-Water)
CITY OF PEKIN,)	
an Illinois municipal corporation,)	
)	
Respondent.)	

AGREED MOTION FOR RELIEF
FROM THE HEARING REQUIREMENT

In support of this Motion, the parties state as follows:

1. Today, the People of the State of Illinois filed a Stipulation and Proposal for Settlement with the Illinois Pollution Control Board.
2. Section 31(c)(2) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(c)(2) (2008), provides:

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)...
3. Complainant and Respondent agree that a formal hearing is not necessary to conclude this matter and wish to avail themselves of Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2008).

WHEREFORE, Complainant and Respondent request relief from the hearing requirement pursuant to Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2008).

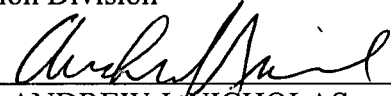
Respectfully submitted,

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:



ANDREW J. NICHOLAS
Assistant Attorney General
Environmental Bureau
69 W. Washington St., Suite 1800
Chicago, Illinois 60602
312/814-2069

DATE: October 22, 2009

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
- vs -)	PCB No. 07-47
)	(Enforcement - Water)
CITY OF PEKIN,)	
an Illinois municipal corporation,)	
)	
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 CITY OF PEKIN ("Respondent") ("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.* (2006), and the Board's Regulations, alleged in the Complaint except as otherwise provided herein. It is the intent of the parties to this Stipulation that it be a final adjudication of this matter.

I. STATEMENT OF FACTS

A. Parties to the Stipulation

1. On December 13, 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(2006), 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 (2006).

3. At all times relevant to the Complaint, the Respondent was and is an Illinois municipal corporation that is authorized to transact business in the State of Illinois. At all times relevant to the Complaint, Respondent owned and operated a wastewater treatment plant ("WWTP") located at 606 South Front Street, Pekin, Tazewell County, Illinois ("site").

4. The City's WWTP and Waste Water Operations were run and operated by a contract operator, United Water. The WWTP discharges to the Illinois River pursuant to the National Pollutant Discharge Elimination System ("NPDES") Permit No. IL0034495; the current NPDES permit was reissued on May 4, 2004, and became effective June 1, 2004, the terms and conditions of which are incorporated herein by reference.

5. The City's sewage collection system includes approximately 17 miles of combined sewers. There are four permitted combined sewer overflows ("CSOs"), the operation of which is governed by Special Condition 12 of the NPDES permit and the CSO Exception granted by the Board on June 5, 1986, in PCB No. 85-226. Outfall 001 is for the WWTP, which has a design maximum flow of 8.7 million gallons per day ("MGD"), and Outfall 002 is for the excess flow facilities, which shall not be utilized until the main treatment facility is receiving its maximum practical flow. The excess flow facilities consist of a settling basin and a chlorination tank with capacities of 224,000 and 75,000 gallons, respectively.

6. The City's permit imposes effluent concentration limitations for fecal coliform,

which is a "contaminant" as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2006). The effluent concentration limitation for fecal coliform is a daily maximum of 400 per 100 ml for Outfall 001 during May through October and for Outfall 002 whenever there is any discharge. Discharge Monitoring Reports ("DMRs") are submitted monthly in accordance with the permit to report the concentrations of contaminants in the effluent and any excess flow.

7. On February 14, 2003, the City, by and through its contract operator United Water, discharged for over 4 hours from Outfall 002 although the main treatment facility was not receiving its maximum practical flow. The discharge contained fecal coliform well in excess of the regulatory and permit limit of 400 per 100 ml.

8. During the morning of April 20, 2004, the City, by and through its contract operator United Water, discharged for over 30 minutes from Outfall 002 although the main treatment facility was not receiving its maximum practical flow. The excess flow facilities remained full throughout the day. Beginning at approximately 8 PM on April 20, 2004, and continuing until 8 AM on April 21, 2004, the City, by and through its contract operator United Water, discharged from Outfall 002 although the main treatment facility was not receiving its maximum practical flow. The discharge contained fecal coliform well in excess of the regulatory and permit limit of 400 per 100 ml. The discharge contained total suspended solid levels shown by lab analysis to be 42 mg/l.

9. On February 19, 2003, the Illinois EPA inspected the WWTP to evaluate its compliance with the NPDES Permit. Among the problems documented during this inspection were inaccurate flow measurement, inadequate activated sludge process control, inadequate flood protection for Outfall 001, the digester tank, originally installed in 1964, was inoperable due to

cracks and leaks, and the excess flow facilities lacked any measures to remove sludge from the settling basin and chlorination tank. Additionally, the City, by and through its contract operator United Water, had recently deposited grease and sludge into the settling basin from a clean-out of the primary clarifier scum wells, which threatened the discharge of such wastes through Outfall 002 in the event of excess flows. Vactor pit leachate from sewer cleaning operations was also being discharged to this settling basin. Review of the lab records revealed that monitoring was not being conducted according to the frequency required by the permit and that ammonia was being reported as a daily maximum instead of the weekly average required by the permit. Lastly, the City reported that, by and through its contract operator United Water, it had failed to investigate south interceptor sanitary sewer overflows and to control slugs of industrial waste, especially grease loadings.

10. On April 27, 2004, the Illinois EPA inspected the WWTP to evaluate its compliance with the NPDES Permit and to investigate recent excess flow discharges. The City, by and through its contract operator United Water, reported that the failure of the plugged bar screen alarm contributed to the April 20 and 21, 2004, plant bypass incident. Moreover, the City, by and through its contract operator United Water, reported that, due to activated sludge quality problems, it was unable to provide continuous treatment of the maximum practical flow. Review of the lab records revealed that monitoring was not being conducted according to the frequency required by the permit.

11. On March 2 and 3, 2005, the Illinois EPA inspected the WWTP. Among the problems documented during this inspection were a lack of flow measurement, the presence of odorous sludge and wastewater in the two contact stabilization donuts and a corresponding

failure to check the WWTP during or after gate closure, ineffective maintenance of the 002 chlorine contact tank, and inadequate flood protection for the 002 basin.

12. On May 6, 2005, the Illinois EPA inspected the WWTP to evaluate its compliance with the NPDES Permit. Generator failure, and related electrical equipment failure, due to improper use of the stand-by generator were documented during this inspection.

13. From February 28, 2003 through March 31, 2003, the City failed to have a certified Class I operator to supervise the operation of the WWTP.

B. Allegations of Non-Compliance

Complainant and the Illinois EPA contend that the Respondent has violated the following provisions of the Act and Board Regulations:

Count I: The City has caused or allowed the discharge of contaminants into waters of the State in violation of the terms or conditions of its NPDES permit and has thereby violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2006).

By discharging contaminants into waters of the State in violation of the terms or conditions of its NPDES permit, the City has thereby violated Sections 304.141(a) and 309.102(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.141(a), 309.102(a).

By discharging contaminants into waters of the State so as to violate regulations or standards adopted by the Pollution Control Board under this Act, the City has thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2006).

By discharging contaminants into waters of the State so as to tend to cause water pollution, the City has thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2006).

Count II: By failing to ensure that all treatment works and associated facilities shall be constructed and operated as to minimize violations of applicable standards during such contingencies as flooding,

adverse weather, power failure, equipment failure, or maintenance, the City has violated Section 306.102 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 306.102 and Section 12(a) of the Act, 415 ILCS 5/12(a) (2006).

By failing to comply with the monitoring, sampling, recording and reporting requirements set forth in its NPDES permit, the City has violated Section 305.102(b) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 305.102(b) and Section 12(f) of the Act, 415 ILCS 5/12(f) (2006).

By allowing bypasses and overflows of untreated wastewater to occur, the City has violated Section 306.102 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 306.102 and Section 12(a) of the Act, 415 ILCS 5/12(a) (2006).

Count III: By failing to have a certified Class I operator to supervise the operation of the WWTP, the City has violated Section 312.101 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 312.101 and Section 12(a) of the Act, 415 ILCS 5/12(a) (2006).

Additional Violations

Subsequent to the start of this enforcement action, the Illinois EPA issued two additional Violation Notices to the Respondent.

1. Violation Notice W-2005-00286: NPDES Permit Schedule Violations and Effluent Violations.
2. Violation Notice M-2006-02024: Overflow Violations, Systems Reliability Violations, and Reporting Violations.

These violations and the necessary compliance measures to address these violations are covered by this Stipulation.

C. Admission of Violations

The Respondent admits to the violations alleged in the Complaint filed in this matter and

referenced within Section I.B. herein.

D. Compliance Activities to Date

The Respondent has taken the following measures to ensure compliance:

1. Added additional monitoring equipment at each CSO point;
2. Maximized storage capacity at WWTF #2 and the State Street lift station;
3. Updated its sewer system telemetry and WWTF #1 monitoring equipment to provide adequate automated control;
4. Completed repairs to Generator #1;
5. Upgraded the chlorination system capacity as required;
6. Installed influent flow measurement and event recording as needed at treatment plant #2;
7. Begun increasing its spare parts inventory to be completed by January 1, 2010;
8. Developed an operations manual for each treatment plant; and
9. Provided adequate manpower for optimum operation and maintenance for both treatment plants and the collection systems.

II. APPLICABILITY

This Stipulation shall apply to and be binding upon the Parties to the Stipulation, and any officer, director, 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, 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 (2006).

The Respondent shall notify each contractor to be retained to perform work required in this Stipulation of each of the requirements of this Stipulation relevant to the activities to be performed by that contractor, including all relevant work schedules and reporting deadlines, and shall provide a copy of this Stipulation to each contractor already retained no later than thirty (30) calendar days after the date of entry of this Stipulation. In addition, the Respondent shall provide copies of all schedules for implementation of the provisions of this Stipulation to the prime vendor(s) supplying the control technology systems and other equipment required by this Stipulation.

No change in ownership, corporate status or operator of the facility shall in any way alter the responsibilities of the Respondent under this Stipulation. In the event that the Respondent proposes to sell or transfer any real property or operations subject to this Stipulation, the Respondent shall notify the Complainant and the Illinois EPA thirty (30) calendar days prior to the conveyance of title, ownership or other interest, including a leasehold interest in the facility or a portion thereof. The Respondent shall make as a condition of any such sale or transfer, that the purchaser or successor provide to Respondent site access and all cooperation necessary for Respondent to perform to completion any compliance obligation(s) required by this Stipulation. The Respondent shall provide a copy of this Stipulation to any such successor in interest and the Respondent shall continue to be bound by and remain liable for performance of all obligations under this Stipulation. In appropriate circumstances, however, the Respondent and a proposed

purchaser or operator of the facility may jointly request, and the Complainant and the Illinois EPA, in their discretion, may consider modification of this Stipulation to obligate the proposed purchaser or operator to carry out future requirements of this Stipulation in place of, or in addition to, the Respondent. This provision does not relieve the Respondent from compliance with any regulatory requirement regarding notice and transfer of applicable facility permits.

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

Section 33(c) of the Act, 415 ILCS 5/33(c) (2006), 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. Complainant contends that the injury to, or interference with, the protection of the health, general welfare, and physical property of the People would be characterized as failure to comply with requirements meant to protect water quality in the State.
2. The parties agree that Respondent's facility is of social and economic benefit.

3. Respondent's facility is suitably located at 606 South Front Street, Pekin, Illinois.

4. The parties agree that complying with the Act and regulations is technically practicable and economically reasonable.

5. The alleged violations occurred while the City's operation was being run by United Water, its contract operator. Respondent implemented measures subsequent to the alleged violations that are the subject of the Complaint in this matter and has agreed to the compliance schedule in this Stipulation in order to operate in compliance with the Act.

IV. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h) (2006), 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 to the Stipulation state as follows:

1. The bulk of the violations stemmed from improper operation and maintenance procedures while the operation was being operated and maintained by United Water, the City's contract operator; however, needed equipment upgrades also played a significant role. Most of the problems with the WWTP and sewer system were long-standing. The fecal coliform excursions were significant.
2. The Illinois EPA notified the City of numerous violations in 2000 but the City did not rectify many of them, resulting in violation notices in 2003 and 2004. Since enforcement action was taken, the City has begun to address and resolve the violations.
3. A portion of the economic benefit of non-compliance can be attributed to the cost for the required chlorination upgrade needed to control fecal coliform excursions. This portion of the economic benefit of noncompliance was approximately \$980.00. However, a total economic benefit would take into account cost estimates for the WWTF upgrade, as well as other technical measures for which the State has not been given cost information.
4. Complainant and the Illinois EPA have determined, based upon the specific facts of this matter, that a penalty of Fourteen Thousand, Four Hundred and Eighty-Three Dollars (\$14,483.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

5. To Complainant's and the Illinois EPA'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 an supplemental environmental project.

V. TERMS OF SETTLEMENT

A. Penalty Payment

1. The Respondent shall pay a civil penalty in the sum of Fourteen Thousand Four Hundred and Eighty-Three Dollars (\$14,483.00) 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 complete any activity or fails to comply with any response or reporting requirement by the date specified in this Stipulation, the Respondent shall provide notice to the Complainant and the Illinois EPA of each failure to comply with this Stipulation and shall pay stipulated penalties in the amount of \$100.00 per day until that compliance is achieved. The Complainant may make a demand for stipulated penalties upon the Respondent for its noncompliance with this Stipulation. However, failure by the Complainant to make this demand shall not relieve the Respondent of the obligation to pay stipulated penalties. All stipulated penalties shall be payable within thirty (30) calendar days of the date the Respondent knows or should have known of its noncompliance with any provision of this Stipulation.

2. 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.

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

C. Payment Procedures

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, IL 62794-9276

The name, case number and the Respondent's federal tax identification number shall appear on the face of the certified check or money order. A copy of the certified check or money order and any transmittal letter shall be sent to:

Environmental Bureau
Illinois Attorney General's Office
500 South Second Street
Springfield, IL 62706

D. Future Compliance

1. The City agrees to complete the following:

SHORT TERM COMPLIANCE ITEMS

These operation and maintenance items shall be implemented within six (6) months from the date the Board adopts and accepts this Stipulation.

1. Additional monitoring equipment is needed at each CSO point on the sewer system to determine when any outfall is nearing discharge.
2. The gate on the north sanitary interceptor will close when any one CSO is nearing discharge. Diversion of flow into the old wastewater treatment facility #2 ("WWTF #2"), for storage, will then begin.
3. The wastewater treatment facility #1 ("WWTF #1") inlet gate will be adjusted to control influent flow so that at least 8.7 million gallons per day design maximum flow is always receiving full treatment.
4. The storage capacity available for sewer system flows at both WWTF #2 and the State Street Lift Station will be used to the fullest extent possible by ensuring that the State Street Lift Station storage tank is also brought on line during high flows. Monitoring equipment shall be provided within sixty (60) days of entry of this order to determine when flows begin entering this tank to determine if influent weir adjustments are needed.
5. There shall be no CSOs allowed by the Respondent until the following has occurred:
 - The Respondent has fully utilized all flow storage facilities at WWTF #1 and WWTF #2 and the State Street storage tank; and
 - The full treatment capacity at WWTF #1 has been utilized with at least a design maximum flow of 8.7 million gallons per day ("MGD") receiving continuous treatment.
6. Entry of sanitary flow into WWTF #1 from the three sanitary interceptors is to be a priority. Continued monitoring will occur to ensure compliance, modifications will be made as needed.
7. The present sewer system telemetry, and the WWTF #1 monitoring equipment,

shall provide the level of automated control needed for this interim plan.

8. Ensure proper operation of all sewer system and WWTF #2 flow control gates and structures so that maximum possible flow is transported to the #1 plant prior to CSO.
9. Maintain records of any dates, times and corresponding flows when the WWTF #1 inlet gate is closed to restrict flow into full treatment.
10. Ensure both WWTFs always receive optimum operation and maintenance ("O&M") and process control so that complete and continuous treatment of design maximum flow ("DMF") can occur at all times when such flows are received.
11. Ensure adequate influent flow control and splitting ahead of the two WWTF #1 mechanical screens to ensure efficient and reliable operation of both screens during higher flows.
12. If final effluent compliance cannot be maintained, provide for sludge removal from the primary clarifiers during 2nd and 3rd shifts. This will require additional manpower - at least 2 operators on duty and/or a sludge holding tank (designed to control odors). Any sludge holding tank construction must be in accordance with the Illinois Recommended Standards for Sewage Works (IRSSW) and an Agency construction permit obtained.
13. Upgrade the aeration system if that at least 1.5 to 2 ppm of dissolved oxygen cannot be maintained in the activated sludge process aeration tanks and aerobic digester. Any blower upgrade needs to be in accordance with IRSSW and an Agency construction permit obtained. As part of this work, additional air diffusers will need to be provided in the digester.
14. All mixed liquor suspended solids ("MLSS") process control testing needs to be performed gravimetrically unless it can be demonstrated the present probe gives accurate readings. Comparison gravimetric testing will be performed twice weekly for six months. Also, probe calibration samples will be performed at the frequency recommended by the probe manufacturer and split with the commercial laboratory utilized by the City.
15. Investigate the cause, and eliminate to the extent possible, the north and south plant clarifier sludge tube plugging problems.
16. Scum and floating debris on the surface of the north and south plant clarifiers shall be discharged into the aerobic digester rather than returned to the aeration tanks.

17. Final clarifier effluent shall be collected and returned to secondary treatment whenever weirs are washed. This will be accomplished by ceasing effluent discharge during weir cleaning, capturing all wash water in the chlorine contact tank and completely pumping the contact tank contents to the head of the WWTF at a rate that exceeds the effluent flow.
18. All 3 chlorine contact tanks shall be completely cleaned with all sludge removed at least every 4 – 6 weeks. This shall be done when final clarifier weirs are washed as described above.
19. Supernatant from the anaerobic digesters and sludge lagoons shall be handled in a manner that does not upset the activated sludge process or degrade final effluent quality. These waste streams shall continue to be discharged directly to the aerobic digester.
20. Continue with the current year-round comprehensive sludge management plan including removal of lagoon sludge at least twice per year. The sludge lagoon shall be completely cleaned out annually and then cleaned as needed during the year so freeboard is maintained at a minimum of two (2) feet.
21. Complete repairs to the generator #1, including connection to the transfer switch. Ensure that future loads are within the generator design capacity.
22. Upgrade the chlorination system capacity, as required, so that adequate chlorine is available to disinfect both 001 and 002 at all times. This work shall be done per the IRSSW and an Agency construction permit obtained.
23. Provide a sharp-crested weir for effluent flow measurement at the FBOP chlorine contact tank.
24. Provide complete draining and cleaning of the 002 settling and chlorination basins after each use; but if there are consecutive events, provide complete draining and cleaning within 24 hours of the last event during normal river stages.
25. Provide for complete draining and cleaning of the #2 treatment plant wastewater storage tanks at least twice a year. A bottom drain and flushing system shall be installed if these tanks receive continued use under the long-term control plan for CSO control or any future upgrading to overall treatment facilities.
26. Provide complete draining and cleaning of the State Street storage basin after each use.
27. Discontinue any use of the lagoon at WWTF #2 unless the lagoon has been sealed to prevent leakage.

28. Influent flow measurement/event recording is needed at treatment plant #2.
29. Continue with work to provide a spare parts inventory for both treatment plants by January 1, 2010.
30. Develop an operations manual for each treatment plant.
31. Ensure adequate manpower and provide optimum operation and maintenance for both treatment plants and the collection system at all times.

PRETREATMENT PROGRAM

The program shall be implemented within 1 year of entry of this order, or as otherwise required by the USEPA.

- The City shall develop a formal pretreatment program for approval by USEPA. An application for a pretreatment program shall be submitted to USEPA by December 31, 2009.

LONG TERM COMPLIANCE ITEMS

Long Term Control Program ("LTCP") for CSO Control

The City shall develop and implement a LTCP for CSO control. The LTCP must be implemented in a manner that ensures there are no effluent or water quality violations associated with CSO's, and the conditions of PCB 85-226 are met. This includes all US EPA and IEPA elements required for LTCP development, including those listed in the IEPA letters dated September 25, 2008 and December 15, 2008 (See Exhibits A and B attached).

TREATMENT PLANT UPGRADING

- The City submitted a proposed LTCP to the Illinois EPA on July 24, 2009 which is presently under review by the Illinois EPA.
- An approvable facilities plan shall be submitted to the Illinois EPA within sixty (60) days of LTCP approval.
- Plans and permit application for a treatment plant upgrade shall be submitted to the Illinois EPA within sixty (60) days of Illinois EPA approval of the facilities plan.
- The Respondent shall have a new upgraded WWTP, fully online, within either

three (3) years of the issuance of the construction permit for the new WWTP or June 30, 2015, whichever occurs first.

- The City shall continue with plans for upgrading both treatment plants. This work will basically consist of a new #1 plant that meets the IRSSW requirements and includes adequate flood protection and backup power, abandonment of the present sludge lagoons, installation of modern sludge digestion and dewatering facilities and intended future use of the plant #2 lagoon. The LTCP and WWTF upgrade shall be coordinated to insure adequate WWTF capacity for treatment of flows following CSO improvements.

WWTF LOADING

- The City shall not accept any WWTF loading that the plant cannot handle, both prior to and subsequent to the treatment plant upgrade.
2. In addition to any other authorities, the Illinois EPA, its employees and representatives, and the Attorney General, her employees and representatives, shall have the right of entry into and upon the 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, her employees and representatives, may take photographs, samples, and collect information, as they deem necessary.
 3. This Stipulation in no way affects the responsibilities of the 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 and included in Section I. B. above.

E. Release from Liability

In consideration of the Respondent's payment of the \$14,483.00 penalty, 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 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 December 13, 2006 and included in Section I. B. above. 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.

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:

As to the Complainant

Andrew J. Nicholas
Assistant Attorney General
Environmental Bureau
69 W. Washington Street
Suite 1800
Chicago, Illinois 60602

As to the Illinois EPA

Charles W. Gunnarson
Assistant Counsel
Illinois EPA
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

James KammueLLer
Division of Water Pollution Control
Illinois EPA
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

As to the Respondent

Dennis Kief
City Manager, City of Pekin
111 S. Capital Street
Pekin, IL 61554

Burt Dancey
City Attorney
P.O. Box 873
Pekin, IL 61555

G. Enforcement and Modification of Stipulation

1. 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.

2. The Parties to the Stipulation may, by mutual written consent, agree to extend any compliance dates or modify the terms of this Stipulation. A request for any modification shall be made in writing and submitted to the contact persons identified in Section V.F. Any such request shall be made by separate document, and shall not be submitted within any other report or submittal required by this Stipulation. Any such agreed modification shall be in writing, signed by authorized representatives of the Parties of the Stipulation.

H. Execution of Stipulation

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

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

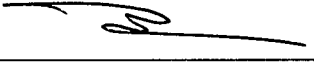
PEOPLE OF THE STATE OF ILLINOIS,


ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

LISA MADIGAN,
Attorney General
State of Illinois,

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

DOUGLAS P. SCOTT, Director
Illinois Environmental Protection Agency

BY: 
THOMAS DAVIS, Chief
Environmental Bureau
Assistant Attorney General

BY: 
JOHN J. KIM
Chief Legal Counsel

DATE: 10/15/09

DATE: 8/12/09

CITY OF PEKIN

BY: _____
(Signature)

Name: _____
(Print)

Title: _____

DATE: _____

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

PEOPLE OF THE STATE OF ILLINOIS,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

LISA MADIGAN,
Attorney General
State of Illinois,

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

DOUGLAS P. SCOTT, Director
Illinois Environmental Protection Agency

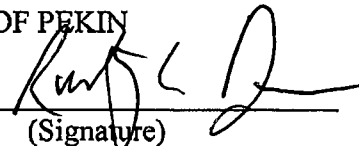
BY: _____
THOMAS DAVIS, Chief
Environmental Bureau
Assistant Attorney General

BY: _____
JOHN J. KIM
Chief Legal Counsel

DATE: _____

DATE: _____

CITY OF PEKIN

BY: 
(Signature)

Name: Rusty L. Dunn
(Print)

Title: Mayer

DATE: October 13, 2009

CERTIFICATE OF SERVICE

I, ANDREW J. NICHOLAS, an Assistant Attorney General, do certify that I caused to be served on this 22th day of October, 2009, the foregoing Notice of Filing, Stipulation and Proposal for Settlement, and Agreed Motion for Relief from the Hearing Requirement, upon the persons listed on said Notice by placing same in an envelope bearing sufficient postage with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois.


ANDREW J. NICHOLAS