

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,

Complainant,

v.

PROFESSIONAL SWINE MANAGEMENT,
LLC, an Illinois limited liability corporation,
HILLTOP VIEW, LLC, an Illinois limited
liability corporation, WILDCAT FARMS, LLC,
an Illinois limited liability corporation,
HIGH-POWER PORK, LLC, an Illinois limited
liability corporation, EAGLE POINT, LLC, an
Illinois limited liability corporation, LONE
HOLLOW, LLC, an Illinois limited liability
corporation, TIMBERLINE, LLC, an Illinois
limited liability corporation, PRAIRIE STATE
GILTS, LTD, an Illinois corporation, NORTH
FORK PORK, LLC, an Illinois limited liability
corporation, LITTLE TIMBER, LLC, an Illinois
limited liability corporation, TWIN VALLEY
PUMPING, INC., an Illinois corporation,

Respondents.

PCB NO.
(Enforcement)

NOTICE OF ELECTRONIC FILING

To: See Attached Service List

PLEASE TAKE NOTICE that on April 15, 2010, I electronically filed with the Clerk of the Pollution Control Board of the State of Illinois, a COMPLAINT and ENTRY OF APPEARANCE, copies of which are 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 (2008), 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:


JANE E. McBRIDE

Sr Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: April 15, 2010

CERTIFICATE OF SERVICE

I hereby certify that I did on April 15, 2010, cause to be served by First Class Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box in Springfield, Illinois, a true and correct copy of the following instruments entitled NOTICE OF ELECTRONIC FILING, COMPLAINT and ENTRY OF APPEARANCE upon the persons listed on the Service List.



JANE McBRIDE
Sr. Assistant Attorney General

This filing is submitted on recycled paper.

SERVICE LIST

Mr. Gary Donley, R.A.
Hilltop View, LLC
34 West Main Street
Box 220
Carthage, IL 62321

Mr. Ed Dwyer, Esq.
Hodge Dwyer Driver
3150 Roland Avenue
P.O. Box 5776
Springfield, IL 62705

Mr. Matt Bradshaw
Twin Valley Pumping, Inc.
27701 U.S. Highway 54
Griggsville, IL 62340

Dr. William L. Hollis
34 W. Main Street
Box 220
Carthage, IL 62321

Dr. Joseph F. Connor, R.A.
Prof. Swine Management
34 W. Main Street
Box 220
Carthage, IL 62321

Mr. John Thomas, R.A.
Eagle Point, LLC
6767 Milwaukee Ave., Ste. 201
Niles, IL 60714

Mr. Robert L. Rhea, R.A.
North Fork Pork, LLC
106 E. State Street
Camp Point, IL 62320

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
v.)	PCB NO.
)	(Enforcement)
PROFESSIONAL SWINE MANAGEMENT,)	
LLC, an Illinois limited liability corporation,)	
HILLTOP VIEW, LLC, an Illinois limited)	
liability corporation, WILDCAT FARMS, LLC,)	
an Illinois limited liability corporation,)	
HIGH-POWER PORK, LLC, an Illinois limited)	
liability corporation, EAGLE POINT, LLC, an)	
Illinois limited liability corporation, LONE)	
HOLLOW, LLC, an Illinois limited liability)	
corporation, TIMBERLINE, LLC, an Illinois)	
limited liability corporation, PRAIRIE STATE)	
GILTS, LTD, an Illinois corporation, NORTH)	
FORK PORK, LLC, an Illinois limited liability)	
corporation, LITTLE TIMBER, LLC, an Illinois)	
limited liability corporation, TWIN VALLEY)	
PUMPING, INC., an Illinois corporation,)	
)	
Respondents.)	

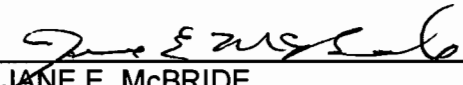
ENTRY OF APPEARANCE

On behalf of the Complainant, PEOPLE OF THE STATE OF ILLINOIS, JANE E. McBRIDE, Sr. 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: 
JANE E. McBRIDE
Environmental Bureau
Sr. Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: April 15, 2010

TIMBER, LLC, an Illinois limited liability corporation, TWIN VALLEY PUMPING, INC., an Illinois corporation, as follows:

COUNT I

STORM WATER POLLUTION VIOLATIONS – HILLTOP VIEW, SCHUYLER COUNTY

1. This Count is brought on behalf of the People of the State of Illinois, *ex rel.* LISA MADIGAN, the 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 Sections 42(d) and (e) of the Illinois Environmental Act ("Act"), 415 ILCS 5/42(d) and (e).

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

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

4. The Respondent HILLTOP VIEW, LLC ("Hilltop") is and was at all times relevant to this Complaint an Illinois limited liability corporation, registered and in good standing with the Illinois Secretary of State to do business in Illinois. The registered agent for Hilltop is Gary Donley, 34 W. Main St. Box 220, Carthage, IL 62321.

5. Respondent Hilltop owns a swine farrowing and gestation facility located along Meadowlark Road several miles east of Littleton and west of the Vermont-Rushville Blacktop, in the Southeast quarter of Section 9, T.4N, R.1W in Oakland Township, Schuyler County, Illinois (the "Hilltop site" and "Hilltop facility"). The site is within the Sugar Creek watershed. The Hilltop facility design capacity is several thousand sows. At all times relevant to this Complaint, construction had yet to commence on the swine confinement buildings and no swine were present at the site.

6. The Respondent PROFESSIONAL SWINE MANAGEMENT, LLC ("PSM") is and was at all times relevant to this Complaint, an Illinois limited liability corporation, registered and in good standing with the Illinois Secretary of State to do business in Illinois. The registered agent for Respondent PSM is Joseph F. Connor, 34 W. Main St. Box 220, Carthage, IL 62321.

7. Respondent PSM manages the site and all aspects of Hilltop's operation.

8. On June 16, 2006, an inspector from the Illinois EPA Field Operations Section, Peoria Regional Office, inspected the facility. No swine were present at the site and no confinement buildings had been constructed, but earthwork had been started. An estimated 15 to 20 acres had been disturbed as a footprint for the swine confinement buildings. A raised entrance/parking area had been constructed. No erosion controls were in place at the site at the time of inspection. Recent excavation had occurred adjacent to Sugar Creek on the north side of the Meadowlark Road bridge and adjacent to the west bank of Sugar Creek. Due to dry conditions, no surface runoff was observed.

9. At the time of the June 16, 2006 inspection, a concrete batch plant was set up at the site. Concrete materials were stockpiled at the site. The inspector noted an eroded channel existed near the stockpile. The channel drained east for a distance of about 400 feet into Sugar Creek. During the inspection, numerous semi trucks arrived with concrete materials, dumped the concrete material and departed.

10. Respondants Hilltop and PSM did not have a National Pollution Discharge Elimination System ("NPDES") Stormwater Permit at the time of the June 16, 2006 inspection.

11. On June 20, 2006, the Illinois EPA issued a Violation Notice ("VN") to the facility for storm water violations and for failure to obtain a NPDES storm water permit prior to construction activity. A copy of the VN was sent to both Hilltop View, LLC and Professional Swine Management, LLC. These VNs were based on the June 16, 2006 storm water

inspection.

12. On June 21, 2006, the Illinois EPA received a completed Notice of Intent for attaining a General Permit to Discharge Storm Water for Construction Site Activities ("NOI"). The Illinois EPA issued NPDES coverage to the site on July 21, 2006.

13. On August 21, 2006, site manager Joseph Connor responded to the VN on behalf of Respondents. In the proposed Compliance Commitment Agreement, Respondents stated that excavation was halted until a NPDES permit was in place and that a NPDES permit was now in place.

14. By letters dated September 7, 2006, the Illinois EPA rejected the Compliance Commitment Agreement proposed by the Respondents, "due to the nature and seriousness of the violations" committed by PSM and Hilltop.

15. Illinois EPA Bureau of Water Field Operations Section inspectors performed a storm water inspection at Hilltop on November 15, 2006. They reported that minimal earthwork was underway and that silt fencing had been installed to minimize storm water erosion. The inspectors suggested that additional silt fence was needed in two areas of the site and that some existing silt fencing needed to be reset.

16. On April 23, 2007, the Illinois EPA sent Respondent PSM a Notice of Intent to Pursue Legal Action ("NIPLA"). On January 14, 2008, the Illinois EPA sent Respondent Hilltop a NIPLA. In response to the NIPLA letters, Hilltop requested a meeting with the Illinois EPA. The NIPLA meeting was held on February 6, 2008.

17. Sugar Creek, and the unnamed tributaries to Sugar Creek are "waters" of the State as that term is defined in Section 3.550 of the Act, 415, ILCS 5/3.550, as follows:

"WATERS" means all accumulations of water, surface and underground, natural, and artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon this State.

18. Section 35.545 of the Act, 415 ILCS 5/3.545, provides the following definition:

"Water pollution" is such alteration of the physical, thermal, chemical, biological or radioactive properties of any waters of the State, or such discharge of any contaminant into any waters of the State, as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

19. Section 12 of the Act, 415 ILCS 5/12, provides the following prohibitions:

No person shall:

- (a) Cause or threaten or allow the discharge of any contaminants into the environment in any State so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources, or so as to violate regulations or standards adopted by the Pollution Control Board under this Act;

* * *

- (f) Cause, threaten or allow the discharge of any contaminant into the waters of the State, as defined herein, including but not limited to, waters to any sewage works, or into any well or from any point source within the State, without an NPDES permit for point source discharges issued by the Agency under Section 39(b) of this Act, or in violation of any term or condition imposed by such permit, or in violation of any NPDES permit filing requirement established under Section 39(b), or in violation of any regulations adopted by the Board or of any order adopted by the Board with respect to the NPDES program.

20. Section 309.102(a) of the Board's Water Pollution Regulations, 35. Ill. Adm.

Code 309.102(a), provides:

Except as in compliance with the provisions of the Act, Board regulations, and the CWA, and the provisions and conditions of the NPDES permit issued to the discharger, the discharge of any contaminant or pollutant by any person into the waters of the State from a point source or into a well shall be unlawful.

21. By causing, threatening or allowing the discharge of sediments and eroded soils

upon the land and into waters of the State so as to alter the physical or chemical properties of the waters and create or likely create a nuisance, the Respondents have caused or tended to cause water pollution in Illinois.

22. By threatening, causing or allowing storm water run-off and sediment and soil erosion to discharge from the facility construction site without obtaining a construction storm water NPDES permit or otherwise complying with construction storm water requirements, Respondents Hilltop and PSM have caused, threatened or allowed the discharge of contaminants into the environment so as to cause or tend to cause water pollution in Illinois, and so as to violate the regulations or standards adopted by the Pollution Control Board, and thereby have violated Sections 12(a) and 12(f) of the Act, 415 ILCS 5/12(a), (f), and 35 Ill. Adm. Code 309.102(a).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent Hilltop View, LLC and Respondent Professional Swine Management,

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; and

D. Assessing against Respondents for every non-NPDES permit violation 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 such violation has continued

thereafter, pursuant to Section 42(a) of the Act, 414 ILCS 5/42(a); and assessing against the Respondents for every NPDES permit violation a civil penalty of ten thousand dollars (\$10,000) per day of violation, pursuant to Section 42(b)(1) of the Act, 414 ILCS 5/42(b)(1).

COUNT II

WATER POLLUTION VIOLATIONS – WILDCAT FARMS, HANCOCK COUNTY

1. This Count is brought on behalf of the People of the State of Illinois, *ex rel.* LISA MADIGAN, the 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 Sections 42(d) and (e) of the Illinois Environmental Act ("Act"), 415 ILCS 5/42(d) and (e).

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

3. The Respondent WILDCAT FARMS, LLC ("Wildcat") is and was at all times relevant to this Complaint an Illinois limited liability corporation, registered and in good standing with the Illinois Secretary of State to do business in Illinois. The registered agent for Wildcat is Gary Donley, 34 W. Main St. Box 220, Carthage, IL 62321.

4. Respondent Wildcat owns a swine farrowing and gestation facility with a design capacity of 6,000 sows located at 2558 North County Road 2150, Dallas City, Hancock County, Illinois 62330 (the "Wildcat site" and "Wildcat facility"). The legal description is Section 28, T7N, R6W of the 4th P.M. in Hancock County. The Wildcat site is within the Wildcat Creek watershed.

5. The Respondent PROFESSIONAL SWINE MANAGEMENT, LLC ("PSM") is and was at all times relevant to this Complaint, an Illinois limited liability corporation, registered and

in good standing with the Illinois Secretary of State to do business in Illinois. The registered agent for Respondent Professional is Joseph F. Connor, 34 W. Main St. Box 220, Carthage, IL 62321.

6. Respondent PSM manages Wildcat's operations and the physical site.

7. The Wildcat facility consists of five buildings that house swine. Most of the buildings have below ground, four-foot-deep waste storage pits. There are two above-ground storage tanks on site reportedly providing a manure storage capacity in excess of 6 million gallons. Underground sewer lines allow for gravity transfer of manure from the buildings to a central pump location. Manure is then pumped from this central pump, or lift station, into the above-ground storage tanks. On the sewer lines, there are "cleanouts", riser pipes that allow access to the lines to facilitate maintenance of the lines.

8. Section 3.545 of the Act, 415 ILCS 5/3.545, provides:

"WATER POLLUTION" is such alteration of the physical, thermal, chemical, biological, or radioactive properties of any waters of the State, or such discharge of any contaminant into any waters of the State, as will or is likely to create a nuisance or render such water harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

9. Section 3.550 of the Act, 415 ILCS 5/3.550, provides:

"WATERS" means all accumulations of water, surface and underground, natural, and artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon this State.

10. Section 3.165 of the Act, 415 ILCS 5/3.165, provides:

"CONTAMINANT" is any solid, liquid, or gaseous matter, any odor or any form of energy, from whatever source.

11. Section 12 (a) and (d) of the Act, 415 ILCS 5/12(a), (d), provides, in pertinent

part, as follows:

No person shall:

- a. Cause or threaten or allow the discharge of any contaminants into the environment in any State so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources, or so as to violate regulations or standards adopted by the Pollution Control Board under this Act;

* * *

- d. Deposit any contaminants upon the land in such place and manner so as to create a water pollution hazard.

12. Section 12 (f) of the Act, 415 ILCS 5/12(f), provides, in pertinent part, as follows:

No person shall:

- f. Cause, threaten or allow the discharge of any contaminant into the waters of the State, as defined herein, including but not limited to, waters to any sewage works, or into any well or from any point source within the State, without an NPDES permit for point source discharges issued by the Agency under Section 39(b) of this Act, or in violation of any term or condition imposed by such permit, or in violation of any NPDES permit filing requirement established under Section 39(b), or in violation of any regulations adopted by the Board or of any order adopted by the Board with respect to the NPDES program.

* * *

13. Section 302.203 of the Board's water pollution regulations, 35 Ill. Adm. Code 302.203, states, in pertinent part:

Waters of the State shall be free from sludge or bottom deposits, floating debris, visible oil, odor, plant or algal growth, color or turbidity of other than natural origin. The allowed mixing provisions of Section 302.102 shall not be used to comply with the provisions of this Section.

14. Section 309.102 of the Board's water pollution regulations, 35 Ill. Adm. Code 309.102(a), states, in pertinent part :

NPDES Permit Required

- a. Except as in compliance with the provisions of the Act, Board regulations, and the CWA, and the provisions and conditions of the NPDES permit issued to the discharger, the discharge of any contaminant or pollutant by any person into the waters of the State from a point source or into a well shall be unlawful

15. An individual mowing the lawn at the Wildcat facility, mowed over the facility's

Gilt Developer barn's northeast cleanout, cutting its elevation to ground level. Sometime after the cleanout pipe was damaged, a boar harness became stuck in the buried PVC drain pipe downstream from the broken cleanout pipe. Swine manure backed up in the plugged line and, on September 18, 2008, flowed out of the pipe where the cleanout had been cut down to ground level. A manure stream approximately two feet wide and 200 yards long flowed out of the cleanout, down the field in a northeasterly direction along a drainage channel where it entered an unnamed tributary to Wildcat Creek.

16. On September 23, 2008, the Illinois EPA conducted an inspection of the Wildcat facility. At the time of the inspection, an accumulation of swine manure remained in various locations along the release drainage path at the facility. The Illinois EPA inspector advised facility personnel to clean-up the remaining swine manure.

17. At the time of the September 23, 2008 inspection, the Illinois EPA inspector collected samples of the discharge and receiving waters. A sample was collected from an accumulation of liquid in the flow path of the manure release. The liquid was turbid, dark-colored and contained a strong swine waste odor. Sample analysis indicated the following parameter levels: ammonia, 1220 mg/l; TSS, 810 mg/l; fecal coliform, 16,000 per 100 ml. A sample was collected from an unnamed tributary to Wildcat Creek 50 yards downstream of the previous sample collection site. It was the receiving water of the release. There were black bottom deposits in the stream. The sample was collected after the bottom deposits were disturbed. The stream contained a swine waste odor. Sample analysis indicated the following parameter levels: ammonia 28.5 mg/l; TSS, 590 mg/l; fecal coliform, 53,000 per 100 ml.

18. This count is brought pursuant to Section 31 of the Act, 415 ILCS 5/31, after providing the Respondents with notice and the opportunity for a meeting with the Illinois EPA. On December 16, 2008, the Illinois EPA sent a VN to Respondent Wildcat Farms, LLC and a

VN to Respondent Professional Swine Management for water violations caused by the September 18, 2008 discharge. The Illinois EPA received no response to either VN. On April 9, 2009, the Illinois EPA sent both Respondents a NIPLA. Respondents requested a meeting in response to the NIPLA.

19. Respondents Wildcat and PSM have caused or allowed the discharge of contaminants to waters of the State at the Wildcat site as will or is likely to create a nuisance or render such water harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses.

20. By causing, allowing or threatening the discharge of contaminants to waters of the State at the Wildcat site so as to cause or tend to cause water pollution in Illinois, Respondents Wildcat and PSM have violated Section 12(a) of the Act, 415 ILCS 5/12(a).

21. Respondents Wildcat and PSM have caused or allowed contaminants to be deposited upon the land in such place and manner as to create a water pollution hazard by causing contaminants to remain on the land and subject to surface drainage or leaching into waters of the State.

22. By depositing contaminants upon the land in such place and manner as to create a water pollution hazard at the Wildcat site, Respondents Wildcat and PSM have violated Section 12(d) of the Act, 415 ILCS 5/12(d).

23. By causing or allowing the discharge of contaminants that resulted in bottom deposits and turbid, discolored and odor conditions in the waters of an unnamed tributary to Wildcat Creek, Respondents Wildcat and PSM have violated Section 12(a) of the Act, 415 ILCS 5/12(a), and Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203.

24. At the time of September 18, 2008 discharge to Wildcat Creek, Respondents

Wildcat and PSM did not have a National Pollution Discharge Elimination System Permit ("NPDES") for the Wildcat facility, nor had the Respondents applied for one. The discharge from the cleanout at the Wildcat facility is a point source discharge.

25. By causing or allowing the discharge of livestock wastewater to waters of the State without an NPDES permit, Respondents Wildcat and PSM have violated 12(f) of the Act, 415 ILCS 5/12(f), and 35 Ill. Adm. Code 309.102(a).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent Wildcat Farms, LLC and Respondent Professional Swine Management, LLC ,

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; and

D. Assessing against Respondents for every non-NPDES permit violation 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 such violation has continued thereafter, pursuant to Section 42(a) of the Act, 414 ILCS 5/42(a); and assessing against the Respondents for every NPDES permit violation a civil penalty of ten thousand dollars (\$10,000) per day of violation, pursuant to Section 42(b)(1) of the Act, 414 ILCS 5/42(b)(1).

COUNT III

WATER POLLUTION VIOLATIONS – HIGH-POWER PORK, ADAMS COUNTY

1. This Count is brought on behalf of the People of the State of Illinois, *ex rel.* LISA MADIGAN, the Attorney General of the State of Illinois, on her own motion pursuant to Sections 42(d) and (e) of the Illinois Environmental Act ("Act"), 415 ILCS 5/42(d) and (e).

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

3. The Respondent HIGH-POWER PORK, LLC ("High-Power") is and was at all times relevant to this Complaint an Illinois limited liability corporation, registered and in good standing with the Illinois Secretary of State to do business in Illinois. The registered agent for High-Power is Gary Donley, 34 W. Main St. Box 220, Carthage, IL 62321.

4. Respondent High-Power owns a swine farrowing and gestation facility with a design capacity of 6,000 sows located approximately 4 miles northeast of LaPrairie, in Adams County. The legal description is SE 1/4 of SW 1/4 of Section 12, T2N, R5W, 4th P.M., Adams County (the "High-Power site" or "High-Power facility"). The High-Power site is in the Cedar Creek and LaMoine River watershed.

5. The Respondent PROFESSIONAL SWINE MANAGEMENT, LLC ("PSM") is and was at all times relevant to this Complaint, an Illinois limited liability corporation, registered and in good standing with the Illinois Secretary of State to do business in Illinois. The registered agent for Respondent PSM is Joseph F. Connor, 34 W. Main St. Box 220, Carthage, IL 62321.

6. Respondent PSM manages High-Power's operations and the physical site.

7. The High-Power facility consists of five buildings that house swine. Each building has below ground, two-foot-deep waste storage pits. There are two above-ground

storage tanks on site. Underground sewer lines allow for gravity transfer of manure from the buildings to a central pump location. Manure is then pumped from this central pump, or lift station, into the storage tanks.

8-14. Plaintiff re-alleges and incorporates by reference herein paragraphs 8 through 14 of Count II as paragraphs 8 through 14 of this Count III.

15. On November 10, 2008, swine waste discharged from the High-Power facility due to a break and/or leak in a six-inch diameter PVC pipeline between the High-Power facility's lift station and one of its approximately 3.5 million gallon capacity, above-ground manure storage tanks. During the incident, approximately 90,000 gallons of liquid swine waste was released from the PVC pipeline that was backfilled the week prior to November 10, 2008. The break and/or leak in the PVC pipeline resulted in swine waste oozing out of the ground and then flowing down a grassed waterway, under the township road into an unnamed tributary of the South Branch of Cedar Creek and then into South Branch Cedar Creek and Cedar Creek, causing a fish kill.

16. At the time of the discharge on November 10, 2008, neighbors observed discoloration and turbidity in Cedar Creek. They traced the contamination to the High Power facility.

17. Respondents High-Power and PSM have caused or allowed the discharge of contaminants to waters of the State at the High-Power site as will or is likely to create a nuisance or render such water harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses.

18. By causing, allowing or threatening the discharge of contaminants to waters of the State at the High-Power site so as to cause or tend to cause water pollution in Illinois,

Respondents High-Power and PSM have violated Section 12(a) of the Act, 415 ILCS 5/12(a).

19. Respondents High-Power and PSM have caused or allowed contaminants to be deposited upon the land in such place and manner as to create a water pollution hazard by causing contaminants to remain on the land and subject to surface drainage or leaching into waters of the State.

20. By depositing contaminants upon the land in such place and manner as to create a water pollution hazard at the High-Power site, Respondents High-Power and PSM have violated Section 12(d) of the Act, 415 ILCS 5/12(d).

21. By causing or allowing the discharge of contaminants that resulted in turbid, discolored and odor conditions in the waters of Cedar Creek, Respondents High-Power and PSM have violated Section 12(a) of the Act, 415 ILCS 5/12(a), and Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203.

22. At the time of November 10, 2008 discharge to Cedar Creek, Respondents High-Power and PSM did not have a NPDES permit for the High-Power facility, nor had the Respondents applied for one. The discharge from the break in the transfer line at the High-Power facility is a point source discharge.

23. By causing or allowing the discharge of livestock wastewater to waters of the State without an NPDES permit, Respondents High-Power and PSM have violated 12(f) of the Act, 415 ILCS 5/12(f), and 35 Ill. Adm. Code 309.102(a).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent High-Power Pork, LLC and Respondent Professional Swine Management, LLC ,

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; and

D. Assessing against Respondents for every non-NPDES permit violation 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 such violation has continued thereafter, pursuant to Section 42(a) of the Act, 414 ILCS 5/42(a); and assessing against the Respondents for every NPDES permit violation a civil penalty of ten thousand dollars (\$10,000) per day of violation, pursuant to Section 42(b)(1) of the Act, 414 ILCS 5/42(b)(1).

COUNT IV

WATER POLLUTION VIOLATIONS – EAGLE POINT, FULTON COUNTY

1. This Count is brought on behalf of the People of the State of Illinois, *ex rel.* LISA MADIGAN, the Attorney General of the State of Illinois, on her own motion pursuant to Sections 42(d) and (e) of the Illinois Environmental Act (“Act”), 415 ILCS 5/42(d) and (e).

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

3. The Respondent EAGLE POINT, LLC (“Eagle Point”) is and was at all times relevant to this Complaint an Illinois limited liability corporation, registered and in good standing with the Illinois Secretary of State to do business in Illinois. The registered agent for Eagle Point is John R. Thomas, 6767 N. Milwaukee Ave., Suite 201, Niles, IL 60714.

4. Respondent Eagle Point owns a farrow-to-wean facility with a design capacity of 6,500 sows located approximately 2 miles northeast of Vermont, IL and approximately 3 miles southeast of Table Grove, in Vermont Township, Fulton County. The legal description is SW 1/4 of Section 15, T4N, R1E. (The "Eagle Point site" or "Eagle Point facility"). Drainage from the Eagle Point site flows directly through several ravines into final cut strip mine lakes.

5. The Respondent PROFESSIONAL SWINE MANAGEMENT, LLC ("PSM") is and was at all times relevant to this Complaint, an Illinois limited liability corporation, registered and in good standing with the Illinois Secretary of State to do business in Illinois. The registered agent for Respondent PSM is Joseph F. Connor, 34 W. Main St. Box 220, Carthage, IL 62321.

6. Respondent PSM manages Eagle Point's operations and the physical site.

7. The Eagle Point facility consists of five total confinement buildings that house swine. The isolation building has below ground, two-foot-deep pull-plug waste storage pits. From the isolation building 2 foot pits, waste is diverted to the 10-foot-deep pits below the gilt grow/finish building. The farrowing building has below ground, two-foot-deep pull-plug waste storage pits. From the farrowing building 2 foot pits, waste is diverted to the 10-foot-deep pits below the gestation buildings. The gilt grow/finish building, and north and south gestation buildings have below ground, 10-foot-deep waste storage pits. Waste is agitated in the pits prior to it being pumped for land application.

8-13. Plaintiff re-alleges and incorporates by reference herein paragraphs 8 through 12 and 14 of Count II as paragraphs 8 through 13 of this Count IV.

14. On May 10, 2007, the Illinois EPA inspected the Eagle Point facility. At the time of the inspection, there was a discharge from the north gestation building perimeter tile onto the land in a manner in which the discharge drained into a strip mine lake. The discharge was slightly cloudy and had a slight livestock waste odor. Analysis of a sample collected from the

discharge indicates a fecal coliform level of 35,000 per 100 milliliters ("ml").

15. At the time of the inspection, the Illinois EPA inspector sampled a discharge from the facility's private sewage disposal system, that being an aerated septic tank that serves the office restrooms and showers. This system discharges through a 4-inch diameter line into a lake located east of the facility structures. At the time of the inspection, the discharge was slightly turbid and had a septic odor. The sample analysis results indicated a fecal coliform level of 56,000 per 100 ml, and ammonia level of 41.8 milligrams per liter ("mg/l"), and a biological oxygen demand level of 48 mg/l.

16. Respondents Eagle Point and PSM have caused or allowed the discharge of contaminants to waters of the State at the Eagle Point site as will or is likely to create a nuisance or render such water harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses.

17. By causing, allowing or threatening the discharge of contaminants to waters of the State at the Eagle Point site so as to cause or tend to cause water pollution in Illinois, Respondents Eagle Point and PSM have violated Section 12(a) of the Act, 415 ILCS 5/12(a).

18. Respondents Eagle Point and PSM have caused or allowed contaminants to be deposited upon the land in such place and manner as to create a water pollution hazard by causing contaminants to remain on the land and subject to surface drainage or leaching into waters of the State.

19. By depositing contaminants upon the land in such place and manner as to create a water pollution hazard at the Eagle Point site, Respondents Eagle Point and PSM have violated Section 12(d) of the Act, 415 ILCS 5/12(d).

20. At the time of May 10, 2007 discharge to a strip mine lake, Respondents Eagle

Point and PSM did not have a NPDES permit for the Eagle Point facility, nor had the Respondents applied for one. The discharges from the perimeter tile and the private sewage system at the Eagle Point facility were point source discharges.

21. By causing or allowing the discharge of livestock wastewater to waters of the State without an NPDES permit, Respondents Eagle Point and PSM have violated 12(f) of the Act, 415 ILCS 5/12(f), and 35 Ill. Adm. Code 309.102(a).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent Eagle Point, LLC and Respondent Professional Swine Management, LLC ,

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; and

D. Assessing against Respondents for every non-NPDES permit violation 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 such violation has continued thereafter, pursuant to Section 42(a) of the Act, 414 ILCS 5/42(a); and assessing against the Respondents for every NPDES permit violation a civil penalty of ten thousand dollars (\$10,000) per day of violation, pursuant to Section 42(b)(1) of the Act, 414 ILCS 5/42(b)(1).

COUNT V

WATER POLLUTION VIOLATIONS – LONE HOLLOW, HANCOCK COUNTY

1. This Count is brought on behalf of the People of the State of Illinois, *ex rel.* LISA MADIGAN, the Attorney General of the State of Illinois, on her own motion pursuant to Sections 42(d) and (e) of the Illinois Environmental Act ("Act"), 415 ILCS 5/42(d) and (e).

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

3. The Respondent LONE HOLLOW, LLC ("Lone Hollow") is and was at all times relevant to this Complaint an Illinois limited liability corporation, registered and in good standing with the Illinois Secretary of State to do business in Illinois. The registered agent for Lone Hollow is Gary Donley, 34 W. Main St. Box 220, Carthage, IL 62321.

4. Respondent Lone Hollow owns a farrow to wean swine operation, that, at the time of a September 25, 2007 Illinois EPA inspection, maintained a sow herd of 5,650 head, located approximately 4 miles northwest of Augusta along Township Road 2600E ("Lone Hollow site" or "Lone Hollow facility"). The facility address is 539 N. County Road 2600, Bowen, IL. The legal description for this facility is in the SW 1/4, Section 5 and SE 1/4, Section 6, T3N, R5W, (Augusta Township) in Hancock County. The Lone Hollow facility is located within the watershed of Panther Creek which is tributary to Bronson Creek which is tributary to the LaMoine River.

5. The Respondent PROFESSIONAL SWINE MANAGEMENT, LLC ("PSM") is and was at all times relevant to this Complaint, an Illinois limited liability corporation, registered and in good standing with the Illinois Secretary of State to do business in Illinois. The registered agent for Respondent PSM is Joseph F. Connor, 34 W. Main St. Box 220, Carthage, IL 62321.

6. Respondent PSM manages Lone Hollow's operations and the physical site.

7. The Lone Hollow facility consists of five total confinement buildings that house swine. Waste is stored in pits under the building. Liquid manure from the facility is managed by a contract hauler who land applies manure from the pits to cropland in the immediate vicinity of the site. A 10-bay compost structure is located on the south side of the site for swine mortality. At the time of the September 27, 2007 inspection, the structure was not covered. Leachate from the compost material was observed on the north side of the structure.

8-13. Plaintiff re-alleges and incorporates by reference herein paragraphs 8 through 12 and 14 of Count II as paragraphs 8 through 13 of this Count V.

14. On September 13, 2007, a swine manure release occurred at the Lone Hollow facility. On that date, in an attempt to unplug a pit drainage pipe, liquid was being added to the pit of the farrowing unit in an attempt to correct the plugging problem. The main farrowing building is equipped with an 8-inch diameter pit access/pump out pipe at the southeast corner of the building. The level of wastewater built up within the shallow pit beneath the farrowing building until it reached an outlet at the 8-inch diameter pipe. Liquid swine manure drained out of the 8-inch pipe at the southeast corner of the farrowing building and flowed southeast across the gravel drive. The manure continued to flow east until it reached the waterway to the east of the swine confinement buildings. Upon discovering the release, facility employees stopped the flow at the point where it had reached the waterway using compost from the mortality area. An earthen dam was also constructed immediate east (downstream) from the release flow. An Illinois EPA inspector advised the facility to recover the released wastewater and compost material from the drainage channel/waterway and apply it to cropland as soon as possible.

15. On September 25, 2007, at the time of a follow-up inspection, the Illinois EPA inspector collected samples at four locations at the facility. A sample was collected from the

wastewater release from the manure pit. The sample was taken from a waterway/drainage channel about 150 yards east of the confinement buildings. The liquid was turbid, light brown in color and odorous. Analytical results of this sample indicate an ammonia level of 54.8 milligrams per liter ("mg/l"); biological oxygen demand of 780 mg/l; total suspended solids of 1130 mg/l and fecal coliform of 5,900,000 per 100 ml. Another sample was taken from a second location at the waterway/drainage channel that received the waste release, 150 yards east of the confinement buildings. The liquid was turbid, light brown in color and odorous. Analytical results of this sample indicate an ammonia level of 934 milligrams per liter ("mg/l"); biological oxygen demand of 8100 mg/l; total suspended solids of 2130 mg/l and fecal coliform of 5,700,000 per 100 ml.

16. At the time of the September 25, 2007 inspection, the Illinois EPA inspector also took samples of discharges that were occurring from building perimeter tiles. A very low flow of clear liquid was discharging from the perimeter tile for the isolation confinement building. The tile outlet is located about 50 yards north of the isolation building. Analytical results of this sample indicate fecal coliform of 5,400 per 100 ml. A second perimeter tile sample was taken from a perimeter tile serving the facility's gestation building #1. The tile outlet is located north of gestation building #1. Analytical results of this sample indicate fecal coliform of 11,700 per 100 ml.

17. Respondents Lone Hollow and PSM have caused or allowed the discharge of contaminants to waters of the State at the Lone Hollow site as will or is likely to create a nuisance or render such water harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses.

18. By causing, allowing or threatening the discharge of contaminants to waters of

the State at the Lone Hollow site so as to cause or tend to cause water pollution in Illinois, Respondents Lone Hollow and PSM have violated Section 12(a) of the Act, 415 ILCS 5/12(a).

19. Respondents Lone Hollow and PSM have caused or allowed contaminants to be deposited upon the land in such place and manner as to create a water pollution hazard by causing contaminants to remain on the land and subject to surface drainage or leaching into waters of the State.

20. By depositing contaminants upon the land in such place and manner as to create a water pollution hazard at the Lone Hollow site, Respondents Lone Hollow and PSM have violated Section 12(d) of the Act, 415 ILCS 5/12(d).

21. At the time of September 13, 2007 to the waterway tributary to Panther Creek and the September 25, 2007 perimeter tile discharge, Respondents Lone Hollow and PSM did not have a NPDES permit for the Lone Hollow facility, nor had the Respondents applied for one. The discharges from the confinement building pit, and from the perimeter tiles at the Lone Hollow facility are point source discharges.

22. By causing or allowing the discharge of livestock wastewater to waters of the State without an NPDES permit, Respondents Lone Hollow and PSM have violated 12(f) of the Act, 415 ILCS 5/12(f), and 35 Ill. Adm. Code 309.102(a).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent Lone Hollow, LLC and Respondent Professional Swine Management, LLC ,

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; and

D. Assessing against Respondents for every non-NPDES permit violation 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 such violation has continued thereafter, pursuant to Section 42(a) of the Act, 414 ILCS 5/42(a); and assessing against the Respondents for every NPDES permit violation a civil penalty of ten thousand dollars (\$10,000) per day of violation, pursuant to Section 42(b)(1) of the Act, 414 ILCS 5/42(b)(1).

COUNT VI

WATER POLLUTION VIOLATIONS – TIMBERLINE, SCHUYLER COUNTY

1. This Count is brought on behalf of the People of the State of Illinois, *ex rel.* LISA MADIGAN, the Attorney General of the State of Illinois, on her own motion pursuant to Sections 42(d) and (e) of the Illinois Environmental Act ("Act"), 415 ILCS 5/42(d) and (e).

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

3. The Respondent TIMBERLINE, LLC ("Timberline") is and was at all times relevant to this Complaint an Illinois limited liability corporation, registered and in good standing with the Illinois Secretary of State to do business in Illinois. The registered agent for Timberline is Gary Donley, 34 W. Main St. Box 220, Carthage, IL 62321.

4. Respondent Timberline owns a breed to farrow total confinement swine operation with three buildings. The two gestation buildings are underlain by deep waste pits, and a

shallow waste pit is below the farrowing building. The farrowing building shallow pit drains into the deep pit of the east gestation building. The operation is located east of the intersection of Illinois State Highways 99 and 101, east of Littleton in Schuyler County ("Timberline facility" or "Timberline site"). Timberline is located within the watershed of West Branch Sugar Creek.

5. The Respondent PROFESSIONAL SWINE MANAGEMENT, LLC ("PSM") is and was at all times relevant to this Complaint, an Illinois limited liability corporation, registered and in good standing with the Illinois Secretary of State to do business in Illinois. The registered agent for Respondent PSM is Joseph F. Connor, 34 W. Main St. Box 220, Carthage, IL 62321.

6. Respondent PSM manages Timberline's operations and the physical site.

7. The Respondent TWIN VALLEY PUMPING, INC. ("Twin Valley") is and was at all times relevant to this Complaint, an Illinois corporation, registered and in good standing with the Illinois Secretary of State to do business in Illinois. The registered agent for and president of Respondent Twin Valley is Matt Bradshaw, 27701 U.S. Highway 54, Griggsville, IL 62340. Respondent Twin Valley performed contract livestock waste land application for the Timberline facility.

8-13. Plaintiff re-alleges and incorporates by reference herein paragraphs 8 through 12 and 14 of Count II as paragraphs 8 through 13 of this Count VI.

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

- a. Existing livestock management facilities and livestock waste-handling facilities shall have adequate diversion dikes, walls or curbs that will prevent excessive outside surface waters from flowing through the animal feeding operation and will direct runoff to an appropriate disposal, holding or storage area. The diversions are required on all aforementioned structures unless there is negligible outside surface water which can flow through the facility or the runoff is tributary to an acceptable disposal area or a livestock waste-handling facility. If inadequate diversions cause or threaten to cause a violation of the Act or applicable regulations, the Agency may require corrective measures.

15. On October 30, 2003, the Illinois EPA conducted an inspection of the Timberline facility in response to a report of a swine manure release. On October 29, 2003, Respondent Twin Valley was land applying waste from the Timberline facility east of the intersection of Illinois State Route 99 and 101, more specifically in a field south of County Road 1900 N. in Schuyler County.

16. Respondent Twin Valley personnel indicated that the application pumps were idling and the tractor with the tool bar was maneuvering in the land application field prior to land application when the hose clamp failed. The pressure gauges were turned off during the maneuvering because the pumps were idling. Twin Valley personnel estimated the amount released by calculating that the pumps were idling approximately 2 minutes at 600 gallons per minute plus 900 gallons contained in each hose. The total release was estimated to be 3,000 gallons. The hose clamp failed near the edge of the land application field and the waste flowed into an intermittent waterway.

17. On September 11, 2008, the Illinois EPA conducted an inspection of the Timberline facility and at the time of the inspection, the Illinois EPA inspector observed a discharge of leachate from the facility's dead animal composting structure. The purple colored liquid was observed exiting the unroofed composting structure and entering a dry dam which discharges to an unnamed tributary of the West Branch of Sugar Creek.

18. The facility's environmental specialist was on site at the time of the September 11, 2008 inspection. She provided the following information. The discharge of leachate from the composting structure occurred during the recent heavy rainfalls. Facility personnel had attempted to build small gravel dams to prevent the leachate from entering the dry dam. As the rain continued, the dams were not adequate to contain the leachate exiting the composting

structure.

19. On April 22, 2009, at approximately 6:30 p.m. to 7:00 p.m., at a time when no one was present at the Timberline facility, a fire broke out. The fire was reported by a passing motorist. An estimated 3,000 sows and 10,000 piglets were killed by the fire. Most if not all of the surviving animals were euthanized due to respiratory distress or trauma and stress due to the fire, including animals housed in the undamaged buildings. The Illinois EPA conducted an inspection of the site the day after the fire, on April 23, 2009, and reviewed Respondents handling of all livestock waste on the site and solid waste remaining after the fire. No livestock waste releases were observed. As of May 28, 2009, Respondent PSM was still evaluating whether to rebuild the facility.

20. At the time of the September 11, 2008 inspection, Respondents Timberline and PSM have caused or allowed the discharge of contaminants to waters of the State at the Timberline as will or is likely to create a nuisance or render such water harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses.

21. By causing, allowing or threatening the discharge of contaminants to waters of the State at the Timberline so as to cause or tend to cause water pollution in Illinois, Respondents Timberline and PSM have violated Section 12(a) of the Act, 415 ILCS 5/12(a).

22. Respondents Timberline, Twin Valley and PSM have caused or allowed contaminants to be deposited upon the land in such place and manner as to create a water pollution hazard by causing contaminants to remain on the land and subject to surface drainage or leaching into waters of the State.

23. By depositing contaminants upon the land in such place and manner as to create a water pollution hazard at the Timberline site, Respondents Timberline, Twin Valley and PSM

have violated Section 12(d) of the Act, 415 ILCS 5/12(d).

24. By failing to cover and thereby divert precipitation from the compost structures, and instead, allowing precipitation to fall directly on the dead animal compost and drain to the environment through open sides and enter waters of the State, Respondents Timberline and PSM have violated Section 12(a) of the Act, 415 ILCS 5/12(a), and 35 Ill. Adm. Code 501.403(a).

25. At the time of September 11, 2008 discharge to the water tributary to West Branch Sugar Creek, Respondents Timberline and PSM did not have a NPDES permit for the Timberline facility, nor had the Respondents Timberline and PSM applied for one. The discharges from the compost structure at the Timberline facility was a point source discharge.

26. By causing or allowing the discharge of livestock wastewater to waters of the State without an NPDES permit, Respondents Timberline and PSM have violated 12(f) of the Act, 415 ILCS 5/12(f), and 35 Ill. Adm. Code 309.102(a).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondents Timberline, LLC, Respondent Twin Valley Pumping, Inc. and Respondent Professional Swine Management, LLC ,

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; and

D. Assessing against Respondents for every non-NPDES permit violation 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 such violation has continued thereafter, pursuant to Section 42(a) of the Act, 414 ILCS 5/42(a); and assessing against the Respondents for every NPDES permit violation a civil penalty of ten thousand dollars (\$10,000) per day of violation, pursuant to Section 42(b)(1) of the Act, 414 ILCS 5/42(b)(1).

COUNT VII

WATER POLLUTION VIOLATIONS – PRAIRIE STATE GILTS, SCHUYLER COUNTY

1. This Count is brought on behalf of the People of the State of Illinois, *ex rel.* LISA MADIGAN, the Attorney General of the State of Illinois, on her own motion pursuant to Sections 42(d) and (e) of the Illinois Environmental Act ("Act"), 415 ILCS 5/42(d) and (e).

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

3. The Respondent PRAIRIE STATE GILTS, LTD ("Prairie State Gilts") is and was at all times relevant to this Complaint an Illinois corporation, registered and in good standing with the Illinois Secretary of State to do business in Illinois. The registered agent for Prairie State Gilts is Gary Donley, 34 W. Main St. Box 220, Carthage, IL 62321.

4. Respondent Prairie State Gilts owns a sow breeding and gestation operation. The legal description of the property is NE 1/4 of Section 11 and NW 1/4 of Section 12, T3N, R3W of the 4th P.M. in Schuyler County, Illinois. Approximately 2,500 head of swine weighing over 55 pounds and 2,000 head of swine weighing less than 55 pounds are confined at the facility. ("Prairie State Gilts site" or "Prairie State Gilts facility").

5. The Respondent PROFESSIONAL SWINE MANAGEMENT, LLC ("PSM") is and

was at all times relevant to this Complaint, an Illinois limited liability corporation, registered and in good standing with the Illinois Secretary of State to do business in Illinois. The registered agent for Respondent PSM is Joseph F. Connor, 34 W. Main St. Box 220, Carthage, IL 62321.

6. Respondent PSM manages Prairie State Gilt's operations and the physical site.

7. The Prairie State Gilt facility waste handling system consists of shallow pits with drain pull plugs under each confinement building on the site but one. A deep pit is under the remaining confinement building. Individual drain pull plugs are removed to allow the transfer of livestock waste by gravity to one of two reception pits on the site, which in turn then pump livestock waste to the single-celled lagoon. Float-activated switches on the pumps within the reception pits automatically start pumping operations when preset levels within the reception pits are reached.

8. Two nursery buildings are located on the southwest portion of the Prairie State Gilt site. Livestock waste from the two nursery buildings drains to the south reception pit and is then pumped into the lagoon. The transfer line between the pits under the nursery buildings and the lagoon is under ground. There are vertical clean-out pipes in two locations on this underground transfer line, that extended three feet above ground. A hayfield is located between the reception pit and the lagoon, above the transfer line.

9-15. Plaintiff re-alleges and incorporates by reference herein paragraphs 8 through 14 of Count II as paragraphs 9 through 15 of this Count VII.

16. One of the vertical clean-out pipes was knocked over or mowed over during hay baling operations on the subject hay field between the reception pit and the lagoon. The vertical clean-out pipes were not protected by bollards, fence posts, gates, fencing or other means of marking and protecting the pipes.

17. On July 7, 2008, with the event of a drain pull plug being removed in one of the

nursery buildings to release waste, livestock waste entered the reception pit to a level that activated the pumps that transfer the contents of the reception pit to the lagoon. Livestock waste exited the pipeline at the decapitated clean-out pipe rather than at the lagoon, and entered a small unnamed tributary of one of the facility's on-site ponds. The pond is used to provide water for the swine in the fall when it is dry and the on-site well does not yield adequate water.

18. The pond that received the swine waste has a surface area of .5 to .75 acres and during periods of high water discharges into an adjacent pond to the east. The east pond ultimately discharges to an unnamed tributary of Honey Branch.

19. On July 24, 2008, the Illinois EPA conducted an inspection of the Prairie State Gilts site in response to a report of the release. A narrow channel of swine waste was observed entering the north end of the receiving pond. The pond was covered with algae and had a septic odor consistent with that of swine waste. The north end of the pond was observed to have a dark gray/black color and to be turbid. An overflow pipe existed on the site, between the receiving pond and adjacent pond to the east.

20. At the time of the inspection, facility personnel indicated the facility intended to pump down the receiving pond and land apply the contents to wheat ground.

21. On October 29, 2008, the Illinois EPA inspector spoke to facility personnel to determine if the contents of the receiving pond had been land applied. On October 30, 2008, the facility responded that nothing had been pumped from the pond. Facility personnel reiterated the that two ponds were interconnected and periods of heavy or frequent rainfall result in a single pond.

22. Respondents Prairie State Gilts and PSM have caused or allowed the discharge of contaminants to waters of the State at the Prairie State Gilts site as will or is likely to create a

nuisance or render such water harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses.

23. By causing, allowing or threatening the discharge of contaminants to waters of the State at the Prairie State Gilts site so as to cause or tend to cause water pollution in Illinois, Respondents Prairie State Gilts and PSM have violated Section 12(a) of the Act, 415 ILCS 5/12(a).

24. Respondents Prairie State Gilts and PSM have caused or allowed contaminants to be deposited upon the land in such place and manner as to create a water pollution hazard by causing contaminants to remain on the land and subject to surface drainage or leaching into waters of the State.

25. By depositing contaminants upon the land in such place and manner as to create a water pollution hazard at the Prairie State Gilts site, Respondents Prairie State Gilts and PSM have violated Section 12(d) of the Act, 415 ILCS 5/12(d).

26. By causing or allowing the discharge of contaminants that resulted in turbid, discolored and odor conditions in the waters of a pond that is in an up gradient drainage to Honey Branch, Respondents Prairie State Gilts and PSM have violated Section 12(a) of the Act, 415 ILCS 5/12(a), and Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203.

27. At the time of July 7, 2008 discharge, Respondents Prairie State Gilts and PSM did not have a NPDES permit for the Prairie State Gilts facility, nor had the Respondents applied for one. The discharge from the clean-out pipe at the Prairie State Gilts facility is a point source discharge.

28. By causing or allowing the discharge of livestock wastewater to waters of the

State without an NPDES permit, Respondents Prairie State Gilts and PSM have violated 12(f) of the Act, 415 ILCS 5/12(f), and 35 Ill. Adm. Code 309.102(a).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent Prairie State Gilts, Ltd. and Respondent Professional Swine Management, LLC ,

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; and

D. Assessing against Respondents for every non-NPDES permit violation 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 such violation has continued thereafter, pursuant to Section 42(a) of the Act, 414 ILCS 5/42(a); and assessing against the Respondents for every NPDES permit violation a civil penalty of ten thousand dollars (\$10,000) per day of violation, pursuant to Section 42(b)(1) of the Act, 414 ILCS 5/42(b)(1).

COUNT VIII

WATER POLLUTION VIOLATIONS – NORTH FORK PORK. HANCOCK COUNTY

1. This Count is brought on behalf of the People of the State of Illinois, *ex rel.* LISA MADIGAN, the Attorney General of the State of Illinois, on her own motion pursuant to Sections 42(d) and (e) of the Illinois Environmental Act ("Act"), 415 ILCS 5/42(d) and (e).

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

3. The Respondent NORTH FORK PORK, LLC ("North Fork") is and was at all times relevant to this Complaint an Illinois corporation, registered and in good standing with the Illinois Secretary of State to do business in Illinois. The registered agent for North Fork Pork is Robert L. Rhea, 106 E. State St., Camp Point, IL 62320.

4. Respondent North Fork Pork owns a 6920 sow, farrow to wean, total confinement swine facility located in St. Albans Township (Section 8), just south of the intersection of 450N and 1400E, approximately 3 miles west of West Point, Hancock County, IL ("North Fork facility" or "North Fork site"). There are a total of 8200 hogs greater than 55 pounds maintained at this facility, and 7700 under 55 pounds. The legal description is SW 1/4, Section 8, T3N, R7W). The mailing address is 450N County Road 1425E, West Point, IL 62380.

5. The North Fork facility consists of two breeding/gestation barns, a farrowing house, and a gilt developer building. Both breeding/gestation barns are underlain by 10 foot deep waste pits. The gilt developer is underlain by an 8 foot deep waste pit. The farrowing house has a 2 foot deep pull plug system that drains to the gestation barn pits.

6. The Respondent PROFESSIONAL SWINE MANAGEMENT, LLC ("PSM") is and was at all times relevant to this Complaint, an Illinois limited liability corporation, registered and in good standing with the Illinois Secretary of State to do business in Illinois. The registered agent for Respondent PSM is Joseph F. Connor, 34 W. Main St. Box 220, Carthage, IL 62321.

7. Respondent PSM manages North Fork's operations and the physical site.

8. The Respondent TWIN VALLEY PUMPING, INC. ("Twin Valley") is and was at

all times relevant to this Complaint, an Illinois corporation, registered and in good standing with the Illinois Secretary of State to do business in Illinois. The registered agent for and president of Respondent Twin Valley is Matt Bradshaw, 27701 U.S. Highway 54, Griggsville, IL 62340. Respondent Twin Valley performs contract livestock waste land application for the North Fork facility.

9-14. Plaintiff re-alleges and incorporates by reference herein paragraphs 8 through 12 and 14 of Count II as paragraphs 9 through 14 of this Count VIII.

15. On December 3, 2003, the Illinois EPA inspected the North Fork facility. At the time of the inspection, there was a discharge from a perimeter tile serving the facility's south gestation building. At the time of the inspection the tile was discharging into a ravine in the terraced field south of the facility.

16. At the time of the inspection, the south gestation building perimeter tile discharge had a strong swine waste odor. Black bottom deposits forming a thin layer of sludge were observed in the tile discharge channel. A sample of the discharge was collected. Analytical results indicated the following parameter levels: ammonia, 45 milligrams per liter ("mg/l"); biochemical oxygen demand ("BOD"), 55 mg/l; total suspended solids ("TSS"), 74 mg/l. In response, the Illinois Department of Agriculture and Illinois Environmental Protection Agency requested that monthly samples be obtained for the subject tile.

17. On May 25, 2004, the Illinois EPA conducted a follow-up inspection at the facility. To address the discharge of swine waste from the south gestation building perimeter tile, Respondents had installed a new lift station along the perimeter tile line to pump the tile discharge back into the building waste pit. At the time of the inspection, the lift station was operational and the discharge to the ravine had been stopped. The area around the old tile outlet was cleaned of the sludge deposits observed at the time of the Illinois EPA's prior

inspection.

18. On August 12, 2004, the Illinois EPA conducted an inspection at the North Fork facility in response to a report of a manure spill. The release occurred through a leak in a 6-inch diameter flexible waste application hose, being used to pump from the gestation pit at the North Fork facility. The manure was released approximately 50 feet north of the intersection of gravel roads 1400 E and 450 N in St Albans Township, Hancock County, just north of the North Fork facility. The wastewater was being pumped from the gestation pit at North Fork to cropland approximately 1.5 miles north of the facility.

19. The cause of the release was described as follows by North Fork and Twin Valley personnel: On the afternoon of August 11, 2004, Twin Valley personnel initiated pumping to the land application field. As pumping operations got underway, an employee left the pump to inspect the hose as it came under pressure. At approximately 1:30 p.m., the employee discovered a leak in the hose at the release site. He returned to the pump and shut it off.

20. At the time of the August 12, 2004 inspection, the Illinois EPA inspector instructed Respondents' personnel to clean up the waste material remaining on the ground and land apply it, and then flush the upper and lower culverts at the intersection with fresh water, capturing the flush water and applying it to cropland.

21. On December 19, 2007, the Illinois EPA conducted an inspection of the site. At the time of the inspection, a flow of liquid was draining in an area between the swine farrowing building and gestation building #2, west to east. The liquid contained a diesel fuel odor and slight oil sheen. The liquid entered a tile inlet located on the south side of a recent addition to the farrowing building. The tile line passed north beneath the farrowing building and drained into a pond located on the north side of the site. Cooling cells are utilized on various swine buildings at the site. During winter months, the cells are winterized with the liquid contents

drained to the ground surface.

22. At the time of the December 19, 2007 inspection, the Illinois EPA inspector observed leachate and runoff draining from the contents of the facility's uncovered mortality compost structure to a small pond on the site. A sample of the leachate that was flowing away from the structure was collected. Analysis results indicate the following parameters levels for the leachate sample: ammonia, 2050 milligrams per liter ("mg/l"); nitrate/nitrite, 29.9 mg/l; biochemical oxygen demand ("BOD"), 15,500 mg/l; total suspended solids ("TSS") 1160 mg/l; fecal coliform, 5,900,000 per 100 ml.

23. Respondents North Fork and PSM have caused or allowed the discharge of contaminants to waters of the State at the North Fork site as will or is likely to create a nuisance or render such water harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses.

24. By causing, allowing or threatening the discharge of contaminants to waters of the State at the North Fork site so as to cause or tend to cause water pollution in Illinois, Respondents North Fork and PSM have violated Section 12(a) of the Act, 415 ILCS 5/12(a).

25. Respondents North Fork, PSM and Twin Valley have caused or allowed contaminants to be deposited upon the land in such place and manner as to create a water pollution hazard by causing contaminants to remain on the land and subject to surface drainage or leaching into waters of the State.

26. By depositing contaminants upon the land in such place and manner as to create a water pollution hazard at the North Fork site, Respondents North Fork, PSM and Twin Valley have violated Section 12(d) of the Act, 415 ILCS 5/12(d).

27. At the time of December 3, 2003 discharge, Respondents North Fork and PSM did not have a NPDES permit for the North Fork facility, nor had the Respondents applied for

one. On June 28, 2004, the Illinois EPA received an NPDES permit application from Respondent PSM for the North Fork facility. The discharges from the mortality compost structure, from the perimeter tile, and from the land application hose at the North Fork facility are point source discharges.

28. By causing or allowing the discharge of livestock wastewater to waters of the State without an NPDES permit, Respondents North Fork and PSM have violated 12(f) of the Act, 415 ILCS 5/12(f), and 35 Ill. Adm. Code 309.102(a).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent North Fork Pork, LLC, Respondent Twin Valley Pumping, Inc. and Respondent Professional Swine Management, LLC

- 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; and
- D. Assessing against Respondents for every non-NPDES permit violation 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 such violation has continued thereafter, pursuant to Section 42(a) of the Act, 414 ILCS 5/42(a); and assessing against the Respondents for every NPDES permit violation a civil penalty of ten thousand dollars (\$10,000) per day of violation, pursuant to Section 42(b)(1) of the Act, 414 ILCS 5/42(b)(1).

COUNT IX

WATER POLLUTION VIOLATIONS – LITTLE TIMBER, HANCOCK COUNTY

1. This Count is brought on behalf of the People of the State of Illinois, *ex rel.* LISA MADIGAN, the Attorney General of the State of Illinois, on her own motion pursuant to Sections 42(d) and (e) of the Illinois Environmental Act (“Act”), 415 ILCS 5/42(d) and (e).

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

3. The Respondent LITTLE TIMBER, LLC (“Little Timber”) is and was at all times relevant to this Complaint an Illinois limited liability corporation, registered and in good standing with the Illinois Secretary of State to do business in Illinois. The registered agent for Little Timber is William L. Hollis, 34 W. Main St. Box 220, Carthage, IL 62321.

4. Respondent Little Timber owns a 2600 sow, farrow-to-wean, total confinement swine operation located southeast of Carthage, IL in the SE 1/4, Section 26 and NE 1/4, Section 35 of T5N, R6W (Carthage Township) in Hancock County (“Little Timber facility” or “Little Timber site”). The facility is located within the watershed of Middle Creek, which is tributary to the LaMoine River.

5. The Little Timber facility farrows approximately 1200 pigs per week. At any given time there are approximately 3000 pigs at the site. There are four total confinement buildings and an office. The buildings include farrowing, breeding, gestation and gilt development units. The swine buildings are equipped with shallow manure storage pits and a pull plug drain system. Swine waste accumulates in the pits. At some frequency, plugs are removed from the shallow pits and the waste drains by gravity to a single cell anaerobic lagoon.

6. The Respondent PROFESSIONAL SWINE MANAGEMENT, LLC (“PSM”) is and

was at all times relevant to this Complaint, an Illinois limited liability corporation, registered and in good standing with the Illinois Secretary of State to do business in Illinois. The registered agent for Respondent PSM is Joseph F. Connor, 34 W. Main St. Box 220, Carthage, IL 62321.

7. Respondent PSM manages Little Timber's operations and the physical site.

8-14. Plaintiff re-alleges and incorporates by reference herein paragraphs 8 through 14 of Count II as paragraphs 8 through 14 of this Count IX.

15. Section 620.301 of the Board's Groundwater Quality Regulations, 35 Ill. Adm. Code 620.301, provides in pertinent part:

General Prohibition Against Use Impairment of Resource Groundwater

- a) No person shall cause, threaten or allow the release of any contaminant to a resource groundwater such that:
 - 1) Treatment or additional treatment is necessary to continue an existing use or to assure a potential use of such groundwater; or
 - 2) An existing or potential use of such groundwater is precluded.

16. On June 1, 2004, the Illinois EPA conducted an inspection of the Little Timber site. At the time of the inspection, the lagoon had freeboard of approximately three to four feet. At the time of the inspection, the Illinois EPA inspector advised the general manager for Respondent PSM, who was on site at the time, that there was a need to irrigate from the lagoon relatively soon so as not to place any additional hydraulic pressure on the lagoon. The levels indicated that there was 15 ½ feet depth of waste in the lagoon at the time of the inspection. Also, at the time of the inspection, tall weed growth was observed on the lagoon berms. Vegetation was about three feet tall. The inspector was advised that the berms should be mowed and that only short growth be maintained in order to facilitate the ability to maintain the integrity of the berms. The purpose of regular mowing of the lagoon berms is to allow for easy access and inspection for rodent activity and other potential structural damage.

17. At the time of the June 1, 2004 inspection, the inspector observed dark colored, turbid, odorous leachate and surface runoff draining west from the mortality compost unit at the Little Timber facility. The runoff drains west in a ditch of the gravel access lane, then flows into a north/south waterway. The waterway drains southeast and passes under the gravel road, and is tributary to Middle Creek. At the time of the inspection, there was a significant amount of skeletal remains, bones and other mortality material in the compost structure, and the inspector observed that there were bones, bone fragments and various skeletal remains exterior of the compost building where the back of the building had been damaged. The compost area, at the time of the June 1, 2004 inspection was fenced on three sides and not protected from precipitation.

18. At the time of the June 1, 2004 inspection, the Illinois EPA inspector collected samples from the drainage channel leading from the dead swine compost unit. A sample collected 20 yards downstream from the compost unit consisted of liquid that was dark colored, very turbid with a strong, offensive, nauseating odor. The analytical results indicated the following parameter levels: ammonia, 1340 mg/l; BOD, 3500 mg/l; TSS, 8550 mg/l; fecal coliform, 130,000 per 100 ml. Another sample was collected from a waterway at a point downstream of the dead swine compost unit. At the location at which the sample was collected, the liquid in the waterway was slightly turbid. The analytical results indicated the following parameter levels: nitrate/nitrite, 33.1 mg/l; fecal coliform, 520 per 100 ml. Another sample was collected from a small, unnamed tributary to Middle Creek. The stream is located southeast of Little Timber and is downstream from the dead swine compost area. The collection point is located on the south side of the gravel road. At the collection location the stream was slightly turbid with a dark color. The analytical results indicated the following parameter levels: BOD, 22 mg/l; TSS, 145 mg/l; fecal coliform, 7,500 per 100 ml.

19. At the time of the June 1, 2004 inspection, odors were observed from the swine confinement buildings, lagoon and dead livestock compost unit. The odor in the vicinity of the compost pile was very strong and offensive. Swine waste odors were observed off-site at County Road 2450 E. About 1 mile northeast of the facility. Wind direction was from the southwest.

20. On June 23, 2004, the Illinois EPA sent a Noncompliance Advisory Letter to Professional Swine Management regarding observations made at the time of the June 1, 2004 inspection. In the letter, the Illinois EPA requested additional information including lagoon monitoring well data. Well data indicate that nitrate levels rose in the southeast monitoring well downgradient of the lagoon from 1.14 and .91 milligrams per liter ("mg/l") in 1997 to 10 mg/l in 2002. Upon information and belief, the impacted groundwater is used for potable purposes and is Class I groundwater.

21. On February 6, 2007 and then again on February 8, 2007, the Respondents reported the release of waste from their wastewater handling structures at the Little Timber facility. The release was caused when an 8-inch inlet line entering the wastewater lagoon froze. Wastewater was discharged from a pipe clean-out into a ditch on the north side of the lagoon. The Respondents constricted the spill with an earthen dike and applied sawdust to the spilled waste. The waste/sawdust slurry was then collected and land applied.

22. On February 21, 2007, the Illinois EPA conducted an inspection in response to the release report. At the time of the inspection, the Illinois EPA inspector observed running water, comprised primarily of snowmelt, along the drainage path north of the lagoon and in the downstream waterway. A brown manure residual was observed in the grass on this drainage path. Also, some snow containing brown frozen wastewater was observed along the path. The Respondents were advised to pump this snow and frozen wastewater into the lagoon. Also, the

stormwater runoff, contaminated by the residual, was to be pumped into the lagoon.

23. At the time of the February 21, 2007 inspection, the flow in the drainage ditch located north of the lagoon was brown and slightly turbid. The ditch was discharging into the waterway in the adjacent field. The waterway was overflowing the sawdust dam due to the volume of snowmelt. The inspector observed a swine waste odor coming from the waterway downstream of the release site. A sample was collected from the waterway. The analytical results indicated the following parameter levels: ammonia, 34.5 mg/l; BOD, 120 mg/l; TSS, 104 mg/l.

24. On August 24, 2007, the Illinois EPA conducted an inspection of the Little Timber facility. At the time of the inspection, the Illinois EPA inspector observed that several swine had been burned in a fire near the gravel road at the facility. The inspector observed skulls and various bones of swine in a burn area adjacent to a large stump. Surface water flows through this area and drains to the southeast. This waterway is tributary to Middle Creek which flows into the LaMoine River. Surface water samples were collected.

25. At the time of the August 24, 2007 inspection, the Illinois EPA inspector also observed the mortality compost structure at the site, which was in use. The inspector observed surface runoff draining west from the mortality compost structure.

26. At the time of the August 24, 2007 inspection, the Illinois EPA inspector collected a water sample from the waterway downstream of the dead swine burn site which was directly in the waterway downstream from the compost structure. The sample was collected from a low flow of a slightly turbid, light brown colored liquid with slight foam. The analytical results indicated the following parameter levels: TSS, 50 mg/l; fecal coliform, 20,000 per 100 ml. Another sample was collected directly down gradient from the compost structure. It was liquid collected from runoff from the dead swine compost structure. The liquid was turbid and dark

colored. The analytical results indicated the following parameter levels: nitrate/nitrite, 51.2 mg/l; BOD, 17 mg/l; TSS, 33 mg/l; fecal coliform, 68,000 per 100 ml.

27. Respondents Little Timber and PSM have caused or allowed the discharge of contaminants to waters of the State at the Little Timber site as will or is likely to create a nuisance or render such water harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses.

28. By causing, allowing or threatening the discharge of contaminants to waters of the State at the Little Timber site so as to cause or tend to cause water pollution in Illinois, Respondents Little Timber and PSM have violated Section 12(a) of the Act, 415 ILCS 5/12(a).

29. Respondents Little Timber and PSM have caused or allowed contaminants to be deposited upon the land in such place and manner as to create a water pollution hazard by causing contaminants to remain on the land and subject to surface drainage or leaching into waters of the State.

30. By depositing contaminants upon the land in such place and manner as to create a water pollution hazard at the Little Timber site, Respondents Little Timber and PSM have violated Section 12(d) of the Act, 415 ILCS 5/12(d).

31. By causing or allowing the discharge of contaminants from the facility's livestock waste lagoon so as to cause increasing levels of nitrate in the groundwater, Respondents have violated Section 12(a) and (d) of the Act, 415 ILCS 5/12(a), (d), and 35 Ill. Admin. Code 620.301.

32. By causing or allowing the discharge of contaminants that resulted in turbid, discolored and odor conditions in the surface waters tributary to Middle Creek which flows into the LaMoine River, Respondents Little Timber and PSM have violated Section 12(a) of the Act,

415 ILCS 5/12(a), and Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203.

33. At the time of June 1, 2004, February 23, 2007 and August 24, 2007 discharges to surface waters tributary to Middle Creek, Respondents Little Timber and PSM did not have a NPDES permit for the High-Power facility, nor had the Respondents applied for one. The discharges from clean-out pipe, compost structure and burn site are point source discharges.

34. By causing or allowing the discharge of livestock wastewater to waters of the State without an NPDES permit, Respondents Little Timber and PSM have violated 12(f) of the Act, 415 ILCS 5/12(f), and 35 Ill. Adm. Code 309.102(a).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent Little Timber, LLC and Respondent Professional Swine Management, LLC ,

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; and

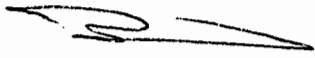
D. Assessing against Respondents for every non-NPDES permit violation a civil penalty of fifty thousand dollars (\$50,000) for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000) for each day during which each such violation has continued thereafter, pursuant to Section 42(a) of the Act, 414 ILCS 5/42(a); and assessing against the

Respondents for every NPDES permit violation a civil penalty of ten thousand dollars (\$10,000) per day of violation, pursuant to Section 42(b)(1) of the Act, 414 ILCS 5/42(b)(1).

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: 
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Dated: 4/14/10