

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF)	
ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB NO.
)	(Enforcement)
City of Bloomington, Illinois,)	
an Illinois municipal corporation,)	
)	
Respondent.)	

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, CITY OF BLOOMINGTON, ILLINOIS, as follows:

COUNT I
OPERATING PERMIT VIOLATIONS

1. This Complaint is brought by the Attorney General on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2012).

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 (2012), and charged, *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board ("Board").

3. This Complaint is brought pursuant to Section 31 of the Act, 415 ILCS 5/31 (2012), after providing the Respondent with notice and the opportunity for a meeting with the Illinois EPA.

4. Respondent, City of Bloomington, is an Illinois municipal corporation duly

organized and existing under the laws of the State of Illinois. The mayor of Bloomington is Tari Renner, 109 East Olive Street, Bloomington, Illinois.

5. Respondent owns and operates a public water supply, Bloomington Water Plant, 25515 Waterside Way, Hudson, IL 61748 ("Plant").

6. Respondent's Plant serves a population of approximately 77,610 residents via 25,000 service connections.

7. Respondent's operation of the Plant is subject to the Act and the Illinois Pollution Control Board ("Board") and Illinois EPA rules and regulations for air pollution, which are found in Title 35, Subtitle F, of the Illinois Administrative Code ("Public Water Supplies").

8. Section 3.315 of the Act, 415 ILCS 5/3.315(2012), provides the following definition:

"Person" is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

9. Respondent, a corporation, is a "person," as that term is defined in Section 3.315 of the Act, 415 5/3.315(2012).

10. Section 3.365 of the Act, 415 ILCS 5/3.365, defines public water supply as:
all mains, pipes and structures through which water is obtained and distributed to the public, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use and which serve at least 15 service connections or which regularly serve at least 25 persons at least 60 days per year. A public water supply is either a "community water supply" or a "non-community water supply".

11. At all times relevant to this Complaint, Respondent has been an "owner or operator of a public water supply", as those terms are defined in Section 3.365 of the Act, 415 ILCS 5/3.365 (2012), and used in Section 603.101 of the Board's Public Water Supplies

Regulations, 35 Ill. Adm. Code. 603.101.

12. Under Section 18(a)(3) of the Act, 415 ILCS 5/18(a)(3) (2012),

(a) No person shall:

....

(3) Construct, install or operate any public water supply without a permit granted by the Agency, or in violation of any condition imposed by such a permit.

13. Section 602.102 of the Board's Public Water Supplies Regulations, 35 Ill. Adm.

Code 602.102, provides:

No owner or operator of a public water supply shall cause or allow the use or operation of any new public water supply, or any new addition to an existing supply, for which a Construction Permit is required under this Part, without an Operating Permit issued by the Agency.

14. Section 652.201 of the Board's Public Water Supplies Regulations, 35 Ill. Adm.

Code 652.201, provides:

The operating permit application shall be filed with the Division of Public Water Supplies Permit Section when construction is complete. An operating permit is required for all projects which require a construction permit. The operating permit shall be obtained before the project is placed in service.

15. Respondent applied for and was granted construction permits for the following additions to their public water supply:

- a. 0676-FY2012 Lafayette Street Reconstruction
- b. 0135-FY2012 Engineering Design Plans, Specifications for a Liquid Calcium Hydroxide Feed System
- c. 0900-FY2011 Tullamore Village
- d. 0870-FY2011 Recarbonation System and Clarifier Building Improvements
- e. 0581-FY2012 IWU New North Classroom Building

- f. 0343-FY2012 Hamilton Road Phase II
- g. 0189-FY2012 Sixth Addition to Brookridge Heights
- h. 0390-FY2011 Advocate Bromenn Eastside Medical Office Building
- i. 0179-FY2011 Six Points Rd. Morris Ave. and Veteran's Parkway Water Main Replacement
- j. 1234-FY2010 Fox Creek Village Third Addition
- k. 1187-FY2010 Greenwood Avenue Water Main Replacement
- l. 0581-FY2009 Tanner Street-Morris Avenue to Springfield Road
- m. 0518-FY 2009 Ireland Grove Road 20" Water Main Phase II
- n. 1927-FY2007 Interstate Business Park Phase II
- o. 1017-FY2007 City of Bloomington, IL—IDOT Proposed Street Improvements—Hamilton Rd. and US 51.
- p. 2470-FY2006 Lafayette Park P.U.D.
- q. 0875-FY2008 O'Neal Park Water Main Project
- r. 0051-FY2012 Locust St. CSO Elimination/Water Main Replacement Phase 1

16. Construction was completed on 0676-FY2012 Lafayette Street Reconstruction on December 10, 2012.

17. The 0676-FY2012 Lafayette Street Reconstruction project operated without an operating permit from December 10, 2012 until August 21, 2014, in violation of Section 18(a)(3) of the Act, 415 ILCS 5/18(a)(3) (2012); Sections 602.102 and 652.201 of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 602.102 and 652.201 (2012).

18. Construction was completed on 0135-FY2012 Engineering Design Plans, Specifications for a Liquid Calcium Hydroxide Feed System by at least June 15, 2013.

19. The 0135-FY2012 Engineering Design Plans, Specifications for a Liquid Calcium Hydroxide Feed System operated without an operating permit from at least June 15, 2013 until October 3, 2014, in violation of Section 18(a)(3) of the Act, 415 ILCS 5/18(a)(3) (2012); Sections 602.102 and 652.201 of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 602.102 and 652.201 (2012).

20. Construction was completed on 0900-FY2011 Tullamore Village on December 12, 2012.

21. 0900-FY2011 Tullamore Village operated without an operating permit from at least December 12, 2012 until August 21, 2014, in violation of Section 18(a)(3) of the Act, 415 ILCS 5/18(a)(3) (2012); Sections 602.102 and 652.201 of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 602.102 and 652.201 (2012).

22. Construction was completed on 0870-FY2011 Recarbonation System and Clarifier Building Improvements by at least June 15, 2013.

23. 0870-FY2011 Recarbonation System and Clarifier Building Improvements operated without an operating permit from at least June 15, 2013 until June 27, 2013, in violation of Section 18(a)(3) of the Act, 415 ILCS 5/18(a)(3) (2012); Sections 602.102 and 652.201 of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 602.102 and 652.201 (2012).

24. Construction was completed on 0581-FY2012 IWU New North Classroom Building on February 1, 2013.

25. 0581-FY2012 IWU New North Classroom Building operated without an operating permit from February 1, 2013 until August 25, 2014, in violation of Section 18(a)(3) of the Act, 415 ILCS 5/18(a)(3) (2012); Sections 602.102 and 652.201 of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 602.102 and 652.201 (2012).

26. Construction was completed on 0343-FY2012 Hamilton Road Phase II on March 15, 2012.

27. 0343-FY2012 Hamilton Road Phase II operated without an operating permit from March 15, 2012 until June 27, 2013, in violation of Section 18(a)(3) of the Act, 415 ILCS 5/18(a)(3) (2012); Sections 602.102 and 652.201 of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 602.102 and 652.201 (2012).

28. Construction was completed on 0189-FY2012 Sixth Addition to Brookridge Heights on December 8, 2011.

29. 0189-FY2012 Sixth Addition to Brookridge Heights operated without an operating permit from December 8, 2011 until June 27, 2013, in violation of Section 18(a)(3) of the Act, 415 ILCS 5/18(a)(3) (2012); Sections 602.102 and 652.201 of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 602.102 and 652.201 (2012).

30. Construction was completed on 0390-FY2011 Advocate Bromenn Eastside Medical Office Building on May 14, 2012.

31. 0390-FY2011 Advocate Bromenn Eastside Medical Office Building operated without an operating permit from May 14, 2012 until June 27, 2013, in violation of Section 18(a)(3) of the Act, 415 ILCS 5/18(a)(3) (2012); Sections 602.102 and 652.201 of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 602.102 and 652.201 (2012).

32. Construction was completed on 0179-FY2011 Six Points Rd. Morris Ave. and Veteran's Parkway Water Main Replacement on September 1, 2012.

33. 0179-FY2011 Six Points Rd. Morris Ave. and Veteran's Parkway Water Main Replacement operated without an operating permit from September 1, 2012 until June 27, 2013, in violation of Section 18(a)(3) of the Act, 415 ILCS 5/18(a)(3) (2012); Sections 602.102 and

652.201 of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 602.102 and 652.201 (2012).

34. Construction was completed on 1234-FY2010 Fox Creek Village Third Addition on April 15, 2013.

35. 1234-FY2010 Fox Creek Village Third Addition operated without an operating permit from April 15, 2013 until June 27, 2013, in violation of Section 18(a)(3) of the Act, 415 ILCS 5/18(a)(3) (2012); Sections 602.102 and 652.201 of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 602.102 and 652.201 (2012).

36. Construction was completed on 1187-FY2010 Greenwood Avenue Water Main Replacement on April 15, 2011.

37. 1187-FY2010 Greenwood Avenue Water Main Replacement operated without an operating permit from April 15, 2011 until June 27, 2013, in violation of Section 18(a)(3) of the Act, 415 ILCS 5/18(a)(3) (2012); Sections 602.102 and 652.201 of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 602.102 and 652.201 (2012).

38. Construction was completed on 0581-FY2009 Tanner Street-Morris Avenue to Springfield Road on October 1, 2011.

39. 0581-FY2009 Tanner Street-Morris Avenue to Springfield Road operated without an operating permit from October 1, 2011 until June 27, 2013, in violation of Section 18(a)(3) of the Act, 415 ILCS 5/18(a)(3) (2012); Sections 602.102 and 652.201 of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 602.102 and 652.201 (2012).

40. Construction was completed on 0518-FY 2009 Ireland Grove Road 20" Water Main Phase II on November 10, 2010.

41. The 0518-FY 2009 Ireland Grove Road 20" Water Main Phase II operated

without an operating permit from November 10, 2010 until June 27, 2013, in violation of Section 18(a)(3) of the Act, 415 ILCS 5/18(a)(3) (2012); Sections 602.102 and 652.201 of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 602.102 and 652.201 (2012).

42. Construction was completed on 1927-FY2007 Interstate Business Park Phase II on October 15, 2008.

43. 1927-FY2007 Interstate Business Park Phase II operated without an operating permit from October 15, 2008 until June 27, 2013, in violation of Section 18(a)(3) of the Act, 415 ILCS 5/18(a)(3) (2012); Sections 602.102 and 652.201 of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 602.102 and 652.201 (2012).

44. Construction was completed on 1017-FY2007 City of Bloomington, IL—IDOT Proposed Street Improvements—Hamilton Rd. and US 51 by at least June 15, 2013.

45. 1017-FY2007 City of Bloomington, IL—IDOT Proposed Street Improvements—Hamilton Rd. and US 51 operated without an operating permit from at least June 15, 2013 until October 29, 2014, in violation of Section 18(a)(3) of the Act, 415 ILCS 5/18(a)(3) (2012); Sections 602.102 and 652.201 of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 602.102 and 652.201 (2012).

46. Construction was completed 2470-FY2006 Lafayette Park P.U.D. on November 27, 2006.

47. 2470-FY2006 Lafayette Park P.U.D. operated without an operating permit from November 27, 2006 until June 27, 2013, in violation of Section 18(a)(3) of the Act, 415 ILCS 5/18(a)(3) (2012); Sections 602.102 and 652.201 of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 602.102 and 652.201 (2012).

48. Construction was completed on 0875-FY2008 O'Neal Park Water Main Project

by at least June 15, 2013.

49. 0875-FY2008 O'Neal Park Water Main Project operated without an operating permit from at least June 15, 2013 until October 29, 2014, in violation of Section 18(a)(3) of the Act, 415 ILCS 5/18(a)(3) (2012); Sections 602.102 and 652.201 of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 602.102 and 652.201 (2012).

50. Construction was completed on 0051-FY2012 Locust St. CSO Elimination/Water Main Replacement Phase 1 by at least June 15, 2013.

51. 0051-FY2012 Locust St. CSO Elimination/Water Main Replacement Phase 1 operated without an operating permit from at least June 15, 2013 until October 9, 2014, in violation of Section 18(a)(3) of the Act, 415 ILCS 5/18(a)(3) (2012); Sections 602.102 and 652.201 of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 602.102 and 652.201 (2012).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent, CITY OF BLOOMINGTON, ILLINOIS:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act;
- D. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000) for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000) for each day during which each violation has continued thereafter;

- E. Awarding to Complainant its costs and reasonable attorney's fees; and
- F. Granting such other relief as the Board may deem appropriate.

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

BY: Matthew J. Dunn
MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
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Dated: April 20, 2015

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
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Complainant,)	
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an Illinois municipal corporation)	
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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 Bloomington, Illinois (“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.* (2012), and the Board’s Regulations, alleged in the Complaint except as otherwise provided herein. It is the intent of the Parties to the Stipulation that it be a final adjudication of this matter.

I. STATEMENT OF FACTS

A. Parties

1. Concurrently with this Stipulation, 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 (2012), 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 (2012).

3. At all times relevant to the Complaint, Respondent was and is an Illinois municipal corporation. At all times relevant to the Complaint, Respondent owned and operated a public water supply facility located at 25515 Waterside Way, Hudson, IL 61748.

4. Respondent is also a "Community Water System" ("CWS") as that term is defined by Section 611.101 of the Illinois Pollution Control Board's ("Board")'s Public Water Supplies Regulations, 35 Ill. Adm. Code 611.101.

5. The Respondent's water supply serves a population of approximately 77,610 residents via 25,000 service connections.

B. Allegations of Non-Compliance

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

1. Count I: Failure to Obtain Operating Permits

Complainant alleges Respondent completed construction and operated the following additions to their public water supply without first obtaining an operating permit, in violation of

Section 18(a)(3) of the Act, 415 ILCS 5/18(a)(3) (2012); and Sections 602.102 and 652.201 of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 602.102 and 652.201 (2012).

- a. 0676-FY2012 Lafayette Street Reconstruction
- b. 0135-FY2012 Engineering Design Plans, Specifications for a Liquid Calcium

Hydroxide Feed System

- c. 0900-FY2011 Tullamore Village
- d. 0870-FY2011 Recarbonation System and Clarifier Building Improvements
- e. 0581-FY2012 IWU New North Classroom Building
- f. 0343-FY2012 Hamilton Road Phase II
- g. 0189-FY2012 Sixth Addition to Brookridge Heights
- h. 0390-FY2011 Advocate Bromenn Eastside Medical Office Building
- i. 0179-FY2011 Six Points Rd. Morris Ave. and Veteran's Parkway Water Main

Replacement

- j. 1234-FY2010 Fox Creek Village Third Addition
- k. 1187-FY2010 Greenwood Avenue Water Main Replacement
- l. 0581-FY2009 Tanner Street-Morris Avenue to Springfield Road
- m. 0518-FY 2009 Ireland Grove Road 20" Water Main Phase II
- n. 1927-FY2007 Interstate Business Park Phase II
- o. 1017-FY2007 City of Bloomington, IL—IDOT Proposed Street Improvements—

Hamilton Rd. and US 51.

- p. 2470-FY2006 Lafayette Park P.U.D.

- q. 0875-FY2008 O'Neal Park Water Main Project
- r. 0051-FY2012 Locust St. CSO Elimination/Water Main Replacement Phase I

C. Admission of Violations

The Respondent admits to the violation(s) alleged in the Complaint filed in this matter and referenced within Section I.B herein.

D. Compliance Activities to Date

1. On June 27, 2013, Respondent obtained operating permits for the following additions to its water supply system:

- a. 0870-FY2011 Recarbonation System and Clarifier Building Improvements
- b. 0343-FY2012 Hamilton Road Phase II
- c. 0189-FY2012 Sixth Addition to Brookridge Heights
- d. 0390-FY2011 Advocate Bromenn Eastside Medical Office Building
- e. 0179-FY2011 Six Points Rd. Morris Ave. and Veteran's Parkway Water Main

Replacement

- f. 1234-FY2010 Fox Creek Village Third Addition
- g. 1187-FY2010 Greenwood Avenue Water Main Replacement
- h. 0581-FY2009 Tanner Street-Morris Avenue to Springfield Road
- i. 1927-FY2007 Interstate Business Park Phase II
- j. 2470-FY2006 Lafayette Park P.U.D.
- k. 0518-FY 2009 Ireland Grove Road 20" Water Main Phase II

2. On August 21, 2014, Respondent obtained operating permits for the following additions to its water supply system.

a. 0676-FY2012 Lafayette Street Reconstruction

b. 0900-FY2011 Tullamore Village

3. On August 25, 2014, Respondent obtained operating permits for the following additions to its water supply system.

a. 0581-FY2012 IWU New North Classroom Building

4. On October 3, 2014, Respondent obtained operating permits for the following additions to its water supply system.

a. 0135-FY2012 Engineering Design Plans, Specifications for a Liquid Calcium Hydroxide Feed System

5. On October 9, 2014, Respondent obtained operating permits for the following additions to its water supply system.

a. 0051-FY2012 Locust St. CSO Elimination/Water Main Replacement Phase 1

6. On October 29, 2014, Respondent obtained operating permits for the following additions to its water supply system.

a. 0875-FY2008 O'Neal Park Water Main Project

b. 1017-FY2007 City of Bloomington, IL—IDOT Proposed Street Improvements—Hamilton Rd. and US 51.

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 (2012).

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

Section 33(c) of the Act, 415 ILCS 5/33(c) (2012), provides as follows:

In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges, or deposits involved including, but not limited to:

1. the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
2. the social and economic value of the pollution source;
3. the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;
4. the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
5. any subsequent compliance.

In response to these factors, the Parties to the Stipulation state the following:

1. The violations are of a serious nature, as the permits are required by Illinois EPA to ensure that public water supply additions are safe. Although the projects at issue in this case were subsequently deemed safe by Illinois EPA and therefore granted operating permits, the timely submission of applications for operating permits is necessary to safeguard the total health and welfare of the system.
2. Economic benefit from noncompliance in this matter is de minimis.
3. Operation of the facility was suitable for the area in which it occurred.
4. Obtaining a permit prior to operation of the above mentioned projects and compliance with its terms is both technically practicable and economically reasonable.
5. Respondent has subsequently complied with the Act and the Board Regulations.

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 Respondent failed to obtain an operating permit prior to operating eighteen (18) additions to its public water supply system. The majority of the violations began in 2011 and 2012 and persisted until at least June of 2013. Some violations date back as far as 2006. The majority of the projects in violation have operated for over a year without an operating permit.

2. Respondent was not diligent in attempting to come back into compliance with the Act, Board regulations and applicable federal regulations once the Illinois EPA notified it of its noncompliance. On April 8, 2013 Illinois EPA issued a Violation Notice to Bloomington for failure to obtain drinking water operating permits. On June 15, 2013, Mr. Cummings, Water Director for the City of Bloomington, provided an accounting of the construction permits cited as lacking operating permits. According to this accounting, nine of the projects had been cancelled, four had been cancelled with new construction permits issued, three projects were underway,

four projects were completed and operating permit applications submitted, and thirteen projects were completed with the operating permits to be submitted. Despite promising to submit required operating permit applications for enumerated completed projects by June 21, 2013, multiple operating permit violations remained unresolved. On August 2, 2013, IEPA sent Bloomington a Notice of Intent to Pursue Legal Action Letter. Bloomington did not request a meeting with Illinois EPA.

While eleven of the eighteen operating permit violations were addressed when permit applications were submitted in June of 2013 and approved on June 27, 2013, the rest of the purportedly completed projects continued to operate without operating permits for another year until the Attorney General initiated this enforcement action. However, since the matter has been referred to the Attorney General's Office for enforcement, Respondent has been diligent in attempting to come back into compliance with the Act, Board regulations and applicable federal regulations. The remaining seven permits have been resolved since notifying Respondent of the enforcement action.

3. The economic benefit of noncompliance is de minimis in this matter.
4. Complainant has determined, based upon the specific facts of this matter, that a penalty of Ten Thousand, Two Hundred, and Sixty dollars (\$10,260.00.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.
5. Illinois EPA records indicate two previous enforcement actions against Bloomington, both of which were for public water violations.
6. Self-disclosure is not at issue in this matter.

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

V. TERMS OF SETTLEMENT

A. Penalty Payment

1. The Respondent shall pay a civil penalty in the sum of Ten Thousand, Two Hundred, and Sixty dollars (\$10,260.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

B. Stipulated Penalties, Interest and Default

1. If the Respondent fails to make any payment required by this Stipulation on or before the date upon which the payment is due, the Respondent shall be in default and the remaining unpaid balance of the penalty, plus any accrued interest, shall be due and owing immediately. In the event of default, the Complainant shall be entitled to reasonable costs of collection, including reasonable attorney's fees.

2. Pursuant to Section 42(g) of the Act, interest shall accrue on any penalty amount owed by the Respondent not paid within the time prescribed herein. Interest on unpaid penalties shall begin to accrue from the date such are due and continue to accrue to the date full payment is received. Where partial payment is made on any penalty amount that is due, such partial payment shall be first applied to any interest on unpaid penalties then owing.

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:

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

D. Future Compliance

1. Respondent shall obtain an operating permit prior to putting into service any new public water supply or addition to an existing water supply for which a construction permit was required, as required by Section 18(a)(3) of the Act, 415 ILCS 5/18(a)(3) (2012); and Sections 602.102 and 652.201 of the Board's Public Water Supplies Regulations, 35 Ill. Adm. Code 602.102 and 652.201 (2012).

2. Within thirty (30) days of the Board Order accepting this Stipulation and Proposal for Settlement, Respondent shall adopt, maintain, and implement a Standard Operating

Procedure regarding additions and modifications to its public water supply which: clearly delegates reporting responsibilities, establishes a clear chain of authority, requires city employees working on permits to maintain a checklist of regulatory requirements, maintains a calendar of regulatory deadlines, and ensures oversight and accountability over the permit process.

3. Within sixty (60) days of the Board Order accepting this Stipulation and Proposal for Settlement, Respondent shall fill its Water Director vacancy.

4. 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.

5. 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.

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

E. Release from Liability

In consideration of the Respondent's payment of the \$10,260.00 penalty and its commitment to cease and desist as contained in Section V.D. above, and upon the Board's approval of this Stipulation, the Complainant releases, waives and discharges the Respondent from any further liability or penalties for the violations of the Act and Board Regulations that were the subject matter of the Complaint herein. The release set forth above does not extend to any matters other than those expressly specified in Complainant's Complaint filed concurrently with this Stipulation. The Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against the Respondent with respect to all other matters, including but not limited to, the following:

- a. criminal liability;
- b. liability for future violation of state, federal, local, and common laws and/or regulations;
- c. liability for natural resources damage arising out of the alleged violations; and
- d. liability or claims based on the Respondent's failure to satisfy the requirements of this Stipulation.

Nothing in this Stipulation is intended as a waiver, discharge, release, or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the State of Illinois may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315, or entity other than the Respondent.

F. Enforcement 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.

G. 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, FOR THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

LISA MADIGAN
Attorney General
State of Illinois

LISA BONNETT, Director
Illinois Environmental Protection Agency

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

BY: Matthew J. Dunn

BY: 
JOHN J. KIM
Chief Legal Counsel

DATE: 4/16/15

DATE: 4/13/15

Tari Renner, Mayor
City of Bloomington

BY: Tari Renner
Name: Tari Renner
Title: Mayor

DATE: _____