

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD


PEOPLE OF THE STATE OF ILLINOIS,)	
by LISA MADIGAN, Attorney General)	
of the State of Illinois,)	
)	
Complainant,)	
)	
v.)	PCB No. 16-
)	(Enforcement – water)
VILLAGE OF LAKEMOOR, a municipal)	
corporation,)	
)	
Respondent.)	

NOTICE OF FILING

To: See attached service list
(VIA ELECTRONIC FILING)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Pollution Control Board by electronic filing the following Complaint, Stipulation and Proposal for Settlement, and Motion for Relief from Hearing Requirement, copies of which are attached and hereby served upon you.

LISA MADIGAN
Attorney General
State of Illinois


Jennifer A. Van Wie, AAG

Dated: June 8, 2016

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THIS FILING IS SUBMITTED ON RECYCLED PAPER

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COMPLAINT

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

COUNT I
FAILURE TO COMPLY WITH THE NATIONAL POLLUTANT
DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT

1. This count is brought 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 at the request of the Illinois Environmental Protection Agency (“Illinois EPA”) pursuant to Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2014).

2. The Illinois EPA is an administrative agency established in the executive branch of the State government by Section 4 of the Act, 415 ILCS 5/4 (2014), and is charged, *inter alia*, with the duty of enforcing the Act.

3. At all times relevant to this Complaint, Respondent, the VILLAGE OF LAKEMOOR (“Lakemoor”), is and has been a municipal corporation duly organized and existing under the laws of the State of Illinois.

4. Lakemoor has a population of approximately 6,025 citizens and is located in both Lake and McHenry Counties, Illinois.

5. Lakemoor is the owner and operator of a small municipal separate storm sewer system ("MS4").

6. Lakemoor's MS4 has a drainage area of approximately five (5) square miles.

7. Lakemoor's MS4 discharges into Sullivan Lake, Lily Lake, Lake Louette, and several other unnamed lakes and tributaries.

8. Flows from Lily Lake flow into Moraine Hills State Park and eventually into the Fox River.

9. The Federal Clean Water Act ("CWA") regulates storm water discharges from MS4s and prohibits such storm water discharges without a National Pollutant Discharge Elimination System ("NPDES") permit. The United States Environmental Protection Agency ("USEPA") administers the NPDES program in each State unless the USEPA has delegated authority to do so to that State. The USEPA has authorized the State of Illinois to issue NPDES permits through the Illinois EPA in compliance with federal regulations, including storm water discharges regulated by 40 C.F.R. 122.26 and 40 C.F.R. 122.32 which require small MS4 operators to obtain a NPDES permit to lawfully discharge storm water.

10. Lakemoor's operation of its MS4 is subject to the Act and the rules and regulations promulgated by the Illinois Pollution Control Board ("Board"). The Board's regulations for water pollution are found in Title 35, Subtitle C, Chapter I of the Illinois Administrative Code ("Board Water Pollution Regulations").

11. On February 3, 2012, the Illinois EPA renewed Lakemoor's MS4 coverage under the General NPDES MS4 permit, NPDES Permit No. ILR400371 ("NPDES MS4 Permit I"), for

its storm water discharges.

12. On March 31, 2014, Lakemoor's NPDES MS4 Permit expired. However, Lakemoor timely submitted its Notice of Intent in anticipation of the permit's expiration and, pursuant to Standard Condition 2, Lakemoor's NPDES MS4 permit was administratively continued

13. On February 10, 2016, the Illinois EPA issued Lakemoor a NPDES MS4 permit ("NPDES MS4 Permit II").

14. NPDES MS4 Permit I provides as follows:

In compliance with the provisions of the Illinois Environmental Protection Act, the Illinois Pollution Control Board Rules and Regulations (35 Ill. Adm. Code, Subtitle C, Chapter 1) and the Clean Water Act, the following discharges may be authorized by this permit in accordance with the conditions herein:

Discharges of only storm water from small municipal separate storm sewer systems, as defined and limited herein. Storm water means storm water runoff, snow melt runoff, and surface runoff and drainage.

15. Part I.C of NPDES MS4 Permit I provides, in pertinent part, as follows:

C. Limitations on Coverage

The following discharges are not authorized by this permit:

1. Storm water discharges that are mixed with non-storm water or storm water associated with industrial activity...

16. Part IV.A of NPDES MS4 I Permit requires Lakemoor to develop, implement and enforce a Stormwater Management Program ("SMP") designed to reduce the discharge of pollutants from its MS4 to the maximum extent practicable and include the minimum control measures described in Part IV.B.

17. Part IV(B) of NPDES MS4 Permit I outlines and requires Lakemoor to create and include measurable goals for six minimum control measures in its SMP:

- 1) Public education and outreach;
- 2) Public participation and involvement;
- 3) Illicit discharge detection and elimination;
- 4) Construction site storm water runoff control;
- 5) Post-construction storm water management; and
- 6) Pollution prevention and good housekeeping.

18. Part IV(B)(3) of NPDES MS4 Permit I – Illicit discharge detection and elimination – requires, among other things, that Lakemoor develop, implement, and enforce a program to detect and eliminate illicit discharges into Lakemoor’s MS4.

19. Part V(A) of NPDES MS4 Permit I imposes a monitoring requirement to evaluate program compliance, the appropriateness of best management practices (“BMPs”), and progress towards achieving identified measurable goals. Monitoring “shall include at least annual monitoring of receiving waters upstream and downstream of the MS4 discharges, use of indicators to gauge the effects of storm water discharges on the physical/habitat-related aspects of the receiving waters, and/or monitoring of the effectiveness of BMPs.”

20. Part V(B) of NPDES MS4 Permit I requires Lakemoor to keep all records required by the Permit and to post its Notice of Intent for permit coverage, its SMP and annual reports on its website.

21. On January 31, 2011, Illinois EPA conducted a compliance evaluation inspection of Lakemoor’s MS4 (“January 31, 2011 Inspection”).

22. The January 31, 2011 Inspection disclosed several deficiencies in Lakemoor’s implementation of its NPDES MS4 Permit I requirements:

- a) Failure to provide data or records to show the effectiveness of its program and its local qualifying program in reducing storm water pollution within its community;
- b) Failure to specify measurable goals and quantify its achievements in order to adequately evaluate the effectiveness of the chosen program and demonstrate compliance in reducing storm water pollution;

- c) Failure to provide additional training and education; and
- d) Failure to post Lakemoor's Notice of Intent, annual report, and notification of stormwater related events on the Lakemoor website.

23. On December 10, 2012, the Illinois EPA conducted a follow-up inspection to determine Lakemoor's compliance with the permit, as well as its progress in addressing the issues outlined during the previous inspection ("December 10, 2012 Inspection").

24. At the December 10, 2012 Inspection, the Illinois EPA determined that Lakemoor still did not have measurable goals in its SMP, which was last updated in February 2011, and had not demonstrated adequate implementation of any of the six (6) minimal controls required by NPDES MS4 Permit I.

25. The Illinois EPA also noted the following deficiencies in Lakemoor's implementation of NPDES MS4 Permit I requirements during the December 10, 2012 Inspection:

- a) Vague and/or unmeasurable goals listed for the NPDES MS4 Permit I minimum control measures;
- b) Lack of sampling results or other indicators of program effectiveness in reducing storm water pollution;
- c) Failure to develop a list of pollutants of concern for public education and outreach;
- d) Failure to depict all of the storm sewer conveyances on the storm sewer map;
- e) Incomplete SMP (missing appendices);
- f) Municipal stormwater facility, infrastructure and outfall inspections were conducted infrequently, randomly, and without prioritization;
- g) Lack of training for all employees, including formal training for Lakemoor staff on illicit discharge detection and elimination;

- h) Insufficient documentation to show that Lakemoor was implementing best management practices for the six minimal controls of its NPDES MS4 Permit I;
- i) Failure to implement good housekeeping practices for stored salt, as was evidenced by spilled salt left on the pavement; and
- j) Failure to inspect and identify industries within the municipality that are causing, or have the potential to cause, an illicit discharge.

26. On February 2, 2015, the Illinois EPA conducted a compliance evaluation inspection of Lakemoor's MS4 program ("February 2, 2015 Inspection").

27. During the February 2, 2015 Inspection, the Illinois EPA noted that many improvements and corrections had been made to Lakemoor's MS4 program, but that the following deficiencies still existed:

- a) Failure to complete any industrial inspections;
- b) Limited infrastructure inspections completed;
- c) Failure to repair storm water infrastructure previously identified as needing maintenance;
- d) Failure to train Village staff in illicit discharge detection and elimination procedures and responses;
- e) Limited water quality monitoring; and
- f) Inadequate assessment of the effectiveness of its MS4 program in reducing storm water pollution.

28. Section 12(f) of the Act, 415 ILCS 5/12(f) (2014), provides 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.

29. Section 3.315 of the Act, 415 ILCS 5/3.315 (2014), 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.

30. Lakemoor is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2014).

31. Section 3.165 of the Act, 415 ILCS 5/3.165 (2014), provides the following definition:

“Contaminant” is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

32. Stormwater discharges that contain non-storm water are a “contaminant” as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2014).

33. Section 3.550 of the Act, 415 ILCS 5/3.550 (2014), provides the following definition:

“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.

34. Sullivan Lake, Lily Lake, Lake Louette, and several other unnamed lakes and tributaries constitute “waters” as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2014).

35. Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a), provides as follows:

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.

36. Section 301.240 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 301.240, provides the following definition:

“CWA” means the Federal Water Pollution Control Act, as amended, (33 U.S.C. 1251 et seq., Public Law 92-500 enacted by Congress October 18, 1972 as amended by the “Clean Water Act”, Public Law 95-217, enacted December 12, 1977, as amended.)

37. Section 1362(14) of the CWA, 33 U.S.C.A. §1362(14), provides the following definition:

The term “point source” means any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include agricultural stormwater discharges and return flows from irrigated agriculture.

38. Lakemoor’s MS4 inlets leading into Sullivan Lake, Lily Lake, Lake Louette, and several other unnamed lakes and tributaries, are each a discernible, confined and discrete conveyance, and therefore each constitutes a “point source” as that term is defined in Section 1362 of the CWA, 33 U.S.C.A. § 1362(14).

39. On a date or dates better known to Lakemoor, Lakemoor failed to properly implement a stormwater management plan in compliance with the terms and conditions of NPDES MS4 Permit I that ensures non-stormwater discharges are not entering its MS4.

40. By failing to implement the terms and conditions of NPDES MS4 Permit I, Lakemoor thereby threatened the discharge of a contaminant – non-stormwater discharges - into

the waters of the State from a point source within the State.

41. By failing to comply with the terms and conditions of NPDES MS4 Permit I, Lakemoor has violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2014), and Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a).

WHEREFORE, the Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Pollution Control Board enter an order against the Respondent, VILLAGE OF LAKEMOOR, with respect to Count I:

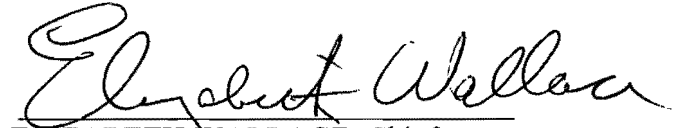
1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations contained herein;
2. Finding that the Respondent has violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2014), and Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a);
3. Ordering the Respondent to comply with the terms and conditions of NPDES MS4 Permit II;
4. Ordering the Respondent to cease and desist from any further violations of Section 12(f) of the Act, 415 ILCS 5/12(f) (2014), and Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a);
5. Assessing against the Respondent, pursuant to Section 42(b)(1) of the Act, 415 ILCS 5/42(b)(1) (2014), a civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation of Section 12(f) of the Act, 415 ILCS 5/12(f) (2014), and any regulations relating to the NPDES permit program;
6. Ordering the Respondent to pay all costs, including attorney, expert witness and consultant fees expended by the Complainant in its pursuit of this action; and

7. Granting such other relief as this Court deems appropriate and just.

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:



ELIZABETH WALLACE, Chief
Environmental Bureau
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OF COUNSEL:

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VILLAGE OF LAKEMOOR, a municipal)	
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)	
Respondent.)	

MOTION FOR RELIEF FROM HEARING REQUIREMENT

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and pursuant to Section 31(c)(2) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31(c)(2) (2014), moves that the Illinois Pollution Control Board (“Board”) grant the parties in the above-captioned matter relief from the hearing requirement imposed by Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2014). In support of this motion, Complainant states as follows:

1. The Complaint in this matter alleges violations of Section 12(f) of the Act, 415 ILCS 5/12(f) (2014), and Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a).
2. Complainant is filing the Complaint with the Board simultaneous with this Motion and a Stipulation and Proposal for Settlement.
3. The parties have reached agreement on all outstanding issues in this matter.
4. This agreement is presented to the Board in a Stipulation and Proposal for Settlement filed this same date.
5. All parties agree that a hearing on the Stipulation and Proposal for Settlement is

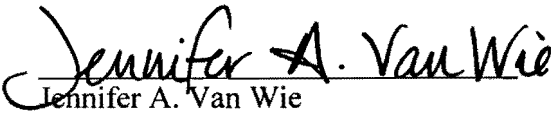
not necessary, and respectfully request relief from such a hearing as allowed by Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2014).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby requests that the Board grant this motion for relief from the hearing requirement set forth in Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2014).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN
Attorney General
State of Illinois

BY: 
Jennifer A. Van Wie
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DATE: June 8, 2016

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Respondent.)	

STIPULATION AND PROPOSAL FOR SETTLEMENT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (“Illinois EPA”), and VILLAGE OF LAKEMOOR (“Respondent” or “Lakemoor”), (collectively “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. (2014), 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. On June 8, 2016, 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 (2014), 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 (2014).

3. At all times relevant to the Complaint, Lakemoor was and is a municipal corporation duly organized and existing under the laws of the State of Illinois.

4. At all times relevant to the Complaint, Lakemoor owned and operated a small municipal separate storm sewer system ("MS4").

5. On February 3, 2012, the Illinois EPA renewed Lakemoor's MS4 coverage under the General National Pollutant Discharge Elimination System ("NPDES") MS4 permit, NPDES Permit No. ILR400371 ("NPDES MS4 Permit I").

6. On February 10, 2016, the Illinois EPA issued Lakemoor a new NPDES MS4 permit effective March 1, 2016 ("NPDES MS4 Permit II").

B. Allegations of Non-Compliance

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

Count I: Failure to Comply with the NPDES Permit, in violation of Section 12(f) of the Act, 415 ILCS 5/12(f) (2014); and Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a).

C. Non-Admission of Violations

The Respondent represents that it has entered into this Stipulation for the purpose of settling and compromising disputed claims without having to incur the expense of contested litigation. By entering into this Stipulation and complying with its terms, the Respondent does not affirmatively admit the allegations of violation within the Complaint and referenced within

Section I.B herein, and this Stipulation shall not be interpreted as including such admission.

D. Compliance Activities to Date

1. The Respondent has taken the following actions towards achieving compliance with its NPDES MS4 Permit, including, but not limited to:

- a) Developing a list of pollutants of concern for public education and outreach;
- b) Implementing the redesign of its website to make information regarding stormwater easier to find, and including stormwater information in newsletters and on social media;
- c) Dedicating resources on expertise and personnel specifically to address the requirements of the NPDES MS4 Permit, including development of a training regimen for its staff;
- d) Updating its storm sewer map to include all known conveyances and outfalls and collecting geographic information system ("GIS") data to improve available information;
- e) Passing an ordinance requiring licensing and allowing Village inspections, then identifying industries within Lakemoor to be reviewed for their potential to cause an illicit discharge into Respondent's MS4;
- f) Sending out letters to identified businesses with highest risk of illicit discharge regarding inspections and developing inspection plans for 2015 and 2016;
- g) Requiring permits for utilities and others that do work in Lakemoor's right of way;

- h) Retaining the services of a consultant to complete a shoreline evaluation of Lily Lake and to develop recommendations for native vegetation restoration activities;
- i) Creating and utilizing a system of procedures and documentation for the tracking and recording of all MS4 activities, including public events, citizen complaints and personnel training (referred to as the "Log Book");
- j) Developing an Illicit Discharge Detection and Elimination (IDDE) program, including sampling procedures;
- k) Applying to become a certified community under the Lake County and McHenry County stormwater programs so that the Village may do its own construction and post-construction plan reviews and inspections; and
- l) Completing and updating its Stormwater Management Plan ("SMP") to include measurable goals for its MS4 program.

II. APPLICABILITY

This Stipulation shall apply to and be binding upon the Parties to the Stipulation. 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 (2014).

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

Section 33(c) of the Act, 415 ILCS 5/33(c) (2014), provides as follows:

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

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

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

1. Complainant contends the environment was threatened and the Illinois EPA's information gathering responsibilities were hindered by the Respondent's violations.
2. There is social and economic value to Lakemoor's MS4.
3. The MS4 is suitably located.
4. It is technically practicable and economically reasonable for Lakemoor to comply with the terms and conditions of its NPDES MS4 Permit.
5. Lakemoor is taking the necessary actions to ensure compliance with the terms and conditions of its NPDES MS4 Permit.

IV. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h) (2014), 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;
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; and
8. whether the respondent has successfully completed a Compliance Commitment Agreement under subsection (a) of Section 31 of this Act to remedy the violations that are the subject of the complaint.

In response to these factors, the Parties to the Stipulation state as follows:

- I. The Respondent failed to comply with some of the terms and conditions of NPDES MS4 Permit I. The violations were discovered by the Illinois EPA during the January 31, 2011 inspection. The alleged violations have been resolved by Lakemoor at various times in the following years.

2. Respondent contends that it was unable to come back into compliance with the Act and Board regulations immediately, but has since taken the necessary actions to return to compliance, including retaining the services of a consultant due to Lakemoor's staffing constraints. Respondent has also undertaken a number of stormwater control activities.

3. The civil penalty takes into account any economic benefit realized by the Respondent as a result of avoided or delayed compliance.

4. Complainant has determined, based upon the specific facts of this matter, that a penalty of Seven Thousand One Hundred dollars (\$7,100.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

5. To Complainant's knowledge, Respondent has no previously adjudicated violations of the Act.

6. Self-disclosure is not at issue in this matter.

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

8. A Compliance Commitment Agreement was not at issue in this matter.

V. TERMS OF SETTLEMENT

A. **Penalty Payment**

1. The Respondent shall pay a civil penalty in the sum of Seven Thousand One Hundred Dollars (\$7,100.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

B. **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.

3. The stipulated penalties shall be enforceable by the Complainant and shall be in addition to, and shall not preclude the use of, any other remedies or sanctions arising from the failure to comply with this Stipulation.

C. Payment Procedures

1. 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, Illinois 62794-9276

2. The case name and case number shall appear on the face of the certified check or money order.

3. A copy of the certified check or money order and any transmittal letter shall be sent to:

Jennifer A. Van Wie
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602

D. Future Compliance

1. Respondent shall comply with all requirements of NPDES MS4 Permit II, including but not limited to:
 - a. Maintaining a current list of industries within Lakemoor's MS4 that have the potential to create an illicit discharge into its MS4 system;
 - b. Creating, implementing, and documenting an inspection schedule for the industries identified in Section V.D.1.a of this Consent Order;
 - c. Conducting periodic inspections of the storm sewer outfalls in dry weather conditions pursuant to a prioritization plan for detection of non-storm water discharges and illegal dumping, as required by Part IV, Paragraph 3.B.h of NPDES MS4 Permit II.
 - d. Inspecting 100% of the storm sewer outfalls required under Part IV, Paragraph 3.B.h of NPDES MS4 Permit II, within a five (5) year period pursuant to a prioritization plan.
 - e. Creating, implementing, and documenting an inspection schedule for Lakemoor's stormwater infrastructure;
 - f. Prioritizing and addressing deficiencies of Lakemoor's infrastructure and encouraging residents, associations and businesses to address infrastructure deficiencies on private properties;
 - g. Maintaining adequate personnel and/or retaining sufficient contractors to

comply with the requirements of its NPDES MS4 Permit and this Stipulation;

h. Continuing to ensure that all personnel with responsibilities for compliance with the NPDES MS4 Permit and this Stipulation receive the necessary training to carry out their obligations for MS4 program implementation;

i. Continuing to maintain data and records to demonstrate the effectiveness of its MS4 program in reducing stormwater pollution within its community and quantifying Lakemoor's progress in achieving its measurable goals; and

j. Continuing to keep stormwater information current on its municipal website and other public access forums, including Lakemoor's most recent Notice of Intent (NOI), annual report, stormwater management plan (SMP), and notifications of stormwater-related events.

2. In addition to any other authorities, the Illinois EPA, its employees and representatives, and the Attorney General, her employees and representatives, shall have the right of entry into and upon Lakemoor, including the MS4 which is the subject of this Stipulation, at all reasonable times for the purposes of conducting inspections and evaluating compliance status. In conducting such inspections, the Illinois EPA, its employees and representatives, and the Attorney General, her employees and representatives, may take photographs, samples, and collect information, as they deem necessary.

3. This Stipulation in no way affects the responsibilities of the Respondent to comply with any other federal, state or local laws or regulations, including but not limited to the Act and the Board Regulations.

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

E. Release from Liability

In consideration of the Respondent's payment of the \$7,100.00 penalty, its commitment to cease and desist as contained in Section V.D.4 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 on June 8, 2016. 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

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.

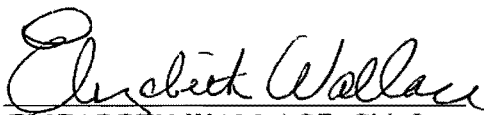
WHEREFORE, the Parties to the Stipulation request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.


PEOPLE OF THE STATE OF ILLINOIS ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

LISA MADIGAN
Attorney General
State of Illinois

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

LISA BONNETT, Director
Illinois Environmental Protection Agency

BY: 
ELIZABETH WALLACE, Chief
Assistant Attorney General
Environmental Bureau

BY: 
JOHN J. KIM
Chief Legal Counsel

DATE: 5/25/16

DATE: 5/19/16

VILLAGE OF LAKEMOOR

BY: _____

Its: _____
Title of signatory

DATE: _____

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

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

LISA MADIGAN
Attorney General
State of Illinois

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Environmental Enforcement/
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LISA BONNETT, Director
Illinois Environmental Protection Agency


BY: _____
ELIZABETH WALLACE, Chief
Assistant Attorney General
Environmental Bureau

BY: _____
JOHN J. KIM
Chief Legal Counsel

DATE: _____

DATE: _____

VILLAGE OF LAKEMOOR

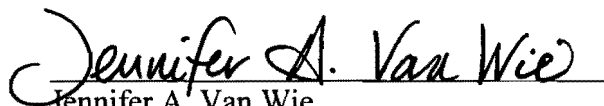
BY: David Alarcon 

Its: Village Administrator
Title of signatory

DATE: May 12, 2016

CERTIFICATE OF SERVICE

I, the undersigned, certify that I have served on the date of June 8, 2016, the attached
Complaint, Stipulation and Proposal for Settlement, Motion for Relief from Hearing
Requirement and Notice of Filing by electronic mail to the persons identified on the service list:



Jennifer A. Van Wie

Assistant Attorney General

Environmental Bureau

Illinois Attorney General's Office

69 W. Washington Street, Suite 1800

Chicago, Illinois 60602

(312) 814-0609

Primary e-mail address: jvanwie@atg.state.il.us

Secondary e-mail address: [mcaacaccio@atg.state.il.us](mailto:mcacaccio@atg.state.il.us)

Date: June 8, 2016