

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

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

Complainant, )

PCB 07-

(Enforcement - Water)

v. )

CITY OF BELVIDERE, an Illinois municipal )  
corporation, and CES, Inc., an Illinois )  
corporation, )

Respondents.

**NOTICE OF FILING**

TO: See attached service list (VIA ELECTRONIC FILING)

PLEASE TAKE NOTICE that today I have electronically filed with the Office of the Clerk of the Pollution Control Board the following Complaint, a copy of which is attached and hereby served on 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 the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the clerk's office or an attorney.

**NOTIFICATION**

YOU ARE HEREBY NOTIFIED that financing may be available through the Illinois Environmental facilities financing act [20 ILCS 351511 et seq.] to correct the alleged pollution.

Respectfully submitted,

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

By: 

KATHERINE M. HAUSRATH  
Assistant Attorney General  
Environmental Bureau  
188 W. Randolph St., 20th Floor  
Chicago, Illinois 60601  
(312) 814-0660

**SERVICE LIST**

Mr. Michael S. Drella  
City Attorney, City of Belvidere  
119 S. State Street  
Belvidere, Illinois 61008

Mr. Kevin Bunge, P.E.  
CES, Inc.  
700 West Locust Street  
Belvidere, Illinois 61008

Mr. Curtis R. Tobin, II  
Tobin & Ramon  
530 S. State Street, Suite 200  
Belvidere, IL 61008

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS,	)	
LISA MADIGAN, Attorney General of	)	
the State of Illinois,	)	
	)	
Complainant,	)	
	)	
-vs-	)	PCB No. 07
	)	
CITY OF BELVIDERE, an Illinois municipal	)	(Enforcement — Water)
corporation, and CES, INC., an Illinois corporation,	)	
	)	
Respondents.	)	

**COMPLAINT**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondents, CITY OF BELVIDERE, and CES, INC., as follows:

**COUNT I:  
CONSTRUCTION WITHOUT A PERMIT**

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

2. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2004), and is charged inter alia, with the duty of enforcing the Act.

3. Respondent CITY OF BELVIDERE ("Belvidere") is an Illinois municipal

corporation, duly organized and existing under the laws of the State of Illinois. Belvidere is located in Boone County, Illinois. The population of Belvidere is 23,532.

4. Respondent CES, INC. ("CES") is an Illinois corporation in good standing. CES is a consulting engineering **firm**.

5. Belvidere is the owner and operator of a sanitary sewer system for Belvidere.

6. On or about May 2004, Belvidere retained CES to provide engineering and consulting services for the improvement of Appleton Road and the construction of a sanitary sewer line along Appleton Road in Belvidere.

7. Beginning on or about June 7, 2004, CES's contractor, Schlichting and Sons Excavating, Inc., constructed 1,750 feet of 8-inch force main sanitary sewer line along Appleton Road between the addresses of 298 North Appleton Road and 544 North Appleton Road in Belvidere ("Appleton Road Sewer Line"). The sanitary sewer line was constructed in the right of way of the road, in conjunction with the improvement of Appleton Road.

8. Neither CES nor Belvidere applied for nor received a construction permit prior to constructing the Appleton Road Sewer Line.

9. On June 6, 2005, CES and Belvidere submitted to the Illinois EPA a construction permit application for the Appleton Road Sewer Line. On July 26, 2005, the Illinois EPA issued the construction permit to Belvidere.

10. Section 12(b) of the Act, 415 ILCS 5/12(b) (2004), provides, in pertinent part, as follows:

No person shall:

b. Construct, install, or operate any equipment, facility, vessel, or aircraft

capable of causing or contributing to water pollution, or designed to prevent water pollution, of any type designated by Board regulations, without a permit granted by the Agency, or in violation of any conditions imposed by such permit.

11. Section 309.202(a) of the Illinois Pollution Control Board ("Board") Water Pollution Regulations, 35 Ill. Adm Code 309.202(a), provides, as follows:

Except for treatment works or wastewater sources which have or will have discharges for which NPDES Permits are required, and for which NPDES Permits have been issued by the Agency:

- a. No person shall cause or allow the construction of any new treatment works, sewer or wastewater source or cause or allow the modification of any existing treatment works, sewer or wastewater source without a construction permit issued by the Agency, except as provided in paragraph (b).

12. Section 3.315 of the Act, 415 ILCS 513.315 (2004), provides, as follows:

"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.

13. CES, an Illinois corporation, is a "person" as that term is defined in Section 3.315 of the Act, 415 ILCS 513.315 (2004).

14. Belvidere, an Illinois political subdivision, is a "person" as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2004).

15. Section 3.545 of the Act, 415 ILCS 513.545 (2004), contains 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 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.

16. Section 3.165 of the Act, 415 ILCS 5/3.165 (2004), contains the following definition:

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

17. The wastewater that flows through the Appleton Road Sewer Line is a contaminant as that term is defined in Section 3.165 of the Act, 415 ILCS 513.165 (2004).

18. The Appleton Road Sewer Line is equipment or a facility designed to prevent water pollution by conveying wastewater, a contaminant, to a wastewater treatment plant for treatment.

19. Respondents constructed the Appleton Road Sewer Line at least six months before the Illinois EPA received a construction permit application from Respondents.

20. By constructing the Appleton Road Sewer Line, which is equipment or a facility designed to prevent water pollution, without a construction permit from the Illinois EPA, Respondents violated Section 12(b) of the Act, 415 ILCS 5/12(b) (2004).

21. Section 301.390 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 301.390, contains the following definition:

"SEWER means a stationary means of transport or stationary system of transport, excluding natural waterways, constructed and operated for the purpose of collecting and transporting wastewater or land runoff, or both.

22. The Appleton Road Sewer Line, which is a stationary system of transport constructed and operated for the purpose of transporting wastewater, is a sewer as that term is defined in 301.390 of the Board Water Pollution Regulations, 35 Ill. Adm Code 301.390.

23. Respondents did not receive a National Pollutant Discharge Elimination System permit from the Illinois EPA prior to constructing the Appleton Road Sewer Line, nor do any of the exceptions in Section 309.202(b) apply.

24. Respondents, CES and City of Belvidere, constructed the Appleton Road Sewer Line, which was a new sewer, without a construction permit from the Illinois EPA, and thus violated Section 309.202(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 309.202(a).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondents, CITY OF BELVIDERE, and CES, INC. on Count I:

1. Authorizing a hearing in this matter at which time the Respondents will be required to answer the allegations herein;
2. Finding that the Respondents have violated Section 12(b) of the Act, and 35 Ill. Adm. Code 309.202(a);
3. Ordering the Respondents to cease and desist from any further violations of Section 12(b) of the Act, and 35 Ill. Adm. Code 309.202(a);
4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against the Respondents for each violation of the Act and pertinent regulations, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
5. Ordering the Respondents to pay all costs, pursuant to Section 42(f) of the Act, including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

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

PEOPLE OF THE STATE OF ILLINOIS,

LISA MADIGAN  
Attorney General  
State of Illinois

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

BY:   
ROSEMARIE CAZEAU, Chief  
Environmental Bureau  
Assistant Attorney General

OF COUNSEL  
KATHEFUNE M. HAUSRATH  
Assistant Attorney General  
Environmental Bureau  
188 W. Randolph St. 20th Floor  
Chicago, Illinois 60601  
(312) 814-0660

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

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

Complainant, )

PCB 07-

v. )

(Enforcement - Water)

CITY OF BELVIDERE, an Illinois municipal )  
corporation, and CES, Inc., an Illinois )  
corporation, )

Respondents.

**NOTICE OF FILING**

TO: See attached service list (VIA ELECTRONIC FILING)

PLEASE TAKE NOTICE that today I have electronically filed with the Office of the Clerk of the Pollution Control Board a Motion to Request Relief from Hearing, and a Stipulation and Proposal for Settlement as to Respondents CES, Inc. and City of Belvidere, a copy of which is attached and hereby served upon you.

Respectfully submitted,

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

By: 

KATHERINE M. HAUSRATH  
Assistant Attorney General  
Environmental Bureau  
188 W. Randolph St., 20th Floor  
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**SERVICE LIST**

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119 S. State Street  
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530 S. State Street, Suite 200  
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PCB 07-

v )

(Enforcement - Water)

CITY OF BELVIDERE, an Illinois municipal )  
corporation, and CES, Inc., an Illinois )  
corporation, )

Respondents.

**MOTION TO REQUEST RELIEF**  
**FROM HEARING REQUIREMENT**

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

1. On August 1, 2006, the Complaint was accepted for hearing by the Illinois Pollution Control Board ("Board") in this matter. On August 1, 2006, a Stipulation and Proposal for Settlement as to Respondents, CES, Inc. and City of Belvidere, was filed with the Board. If accepted, the Stipulation and Proposal for Settlement with Respondents CES, Inc. and City of Belvidere, will dispose of the case.

2. Section 31(c)(2) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(c)(2) (2004), allows the parties in certain enforcement cases to request relief

from the mandatory hearing requirement where the parties have submitted to the Board a stipulation and proposal for settlement. Section 31(c)(2) provides:

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

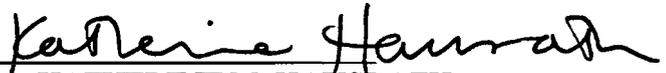
3. No hearing is currently scheduled in the instant case.
4. The Complainant requests the relief conferred by Section 31(c)(2) of the

Act.

WHEREFORE, the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, requests relief from the requirement of a hearing pursuant to 415 ILCS 5/31(c)(2) (2004).

Respectfully submitted,

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

By:   
KATHERINE M. HAUSRATH  
Assistant Attorney General  
Environmental Bureau  
188 W. Randolph St., 20th Floor  
Chicago, Illinois 60601  
(312) 814-0660

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

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

Complainant, )

PCB 007

v. )

(Enforcement - Water)

CITY OF BELVIDERE, an Illinois municipal )  
corporation, and CES, Inc., an Illinois )  
corporation, )

Respondents.

**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"), CES, INC., an Illinois,corporation, and CITY OF BELVIDERE, an Illinois municipal corporation, have agreed to the making of this Stipulation and Proposal for Settlement ("Stipulation") and submit it to the Illinois Pollution Control Board ("Board") for approval. The parties agree that the statement of facts contained herein represents a fair summary of the evidence and testimony which would be introduced by the parties if a hearing were held. The parties further stipulate that this statement of facts is made and agreed upon for purposes of settlement only and that neither the fact that a party has entered into this Stipulation, nor any of

the facts stipulated herein, shall be introduced into evidence in any other proceeding regarding the claims asserted in the Complaint except as otherwise provided herein. If the Board approves and enters this Stipulation, Respondents agree to be bound by the Stipulation and Board Order and not to contest their validity in any subsequent proceeding to implement or enforce their terms.

### **I. JURISDICTION**

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

### **II. AUTHORIZATION**

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

### **III. STATEMENT OF FACTS**

#### **A. Parties**

1. On \_\_\_\_\_, a Complaint was filed on behalf of the People of the State of Illinois by Lisa Madigan, Attorney General of the State of Illinois, on her own motion

and upon the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31(2004), against the Respondents.

2. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2004).

3. At all times relevant to this Stipulation, Respondent, CES, Inc. ("CES"), was and is an Illinois corporation in good standing.

4. At all times relevant to this Stipulation, Respondent, City of Belvidere ("Belvidere"), was and is a municipal corporation duly organized and existing under the laws of the State of Illinois.

#### **B. Site Description**

1. On or about May 2004, Belvidere retained CES to provide engineering and consulting services for the improvement of **Appleton Road** and the construction of a sanitary sewer line along **Appleton Road** in Belvidere.

2. Beginning on or about June 7, 2004, Belvidere's contractor constructed 1,750 feet of 8-inch force main sanitary sewer line along **Appleton Road** between the addresses of 298 North **Appleton Road** and 544 North **Appleton Road** in Belvidere ("**Appleton Road Sewer Line**"). The sanitary sewer line was constructed in the right of way of the road, in conjunction with the improvement of **Appleton Road**.

3. Neither Belvidere nor CES obtained a construction permit from the Illinois EPA prior to or during the construction of the **Appleton Road Sewer Line**.

**C. Allegations of Non-Compliance**

Complainant contends that the Respondents, CES and Belvidere, have violated the following provisions of the Act and Board regulations by not obtaining a construction and operating permit prior to constructing the Appleton Road Sewer Line:

**Count I:**            Construction without a Permit  
Violation of Section 12(b) of the Act, 415 ILCS 5/12(b) (2004), and Section 309.202(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.202(a).

**D. Admission of Violations**

The Respondents, CES and Belvidere, admit to the violations alleged in the Complaint filed in **this** matter and referenced within Section III.C herein.

**E. Compliance Activities to Date**

The Respondents, CES and Belvidere, subsequently obtained and complied with a construction permit for the Appleton Road Sewer Line.

**IV. APPLICABILITY**

This Stipulation shall apply to and be binding upon the Complainant and the Respondents, CES and Belvidere, and any officer, director, agent, or employee of the Respondents, as well as any successors or assigns of the Respondents. The Respondents, CES and Belvidere, shall not raise as a defense to any enforcement action taken pursuant to this

Stipulation the failure of any of their officers, directors, agents, employees or successors or assigns to take such action as shall be required to comply with the provisions of this Stipulation.

**V. COMPLIANCE WITH OTHER LAWS AND REGULATIONS**

This Stipulation in no way affects the responsibilities of the Respondents, CES and Belvidere, to comply with any other federal, state or local laws or regulations including, but not limited to, the Act and the Board regulations, 35 Ill. Adm. Code, Subtitles A through H.

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

Section 33(c) of the Act, 415 ILCS 5/33(c)(2004), provides as follows:

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

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

In response to these factors, the parties state the following:

1. The Illinois EPA's information gathering abilities were hindered by Respondents' construction of a sanitary sewer line without first obtaining a construction permit. Obtaining a permit prior to construction allows the Illinois EPA to review plans to eliminate designs that can threaten the environment or human health. However, Respondents represent that the **Appleton Road Sewer Line** was not actually used to convey wastewater until after Respondents received a construction permit from the Illinois EPA.

2. The **Appleton Road Sewer Line** has a social and economic benefit, because it is a device intended to prevent water pollution by conveying wastewater to a wastewater treatment plant.

3. The **Appleton Road Sewer Line** is suitable for the area in which it is located.

4. Applying for a construction permit prior to constructing the **Appleton Road Sewer** ;Line was both technically practicable and economically reasonable.

5. Respondents, CES and Belvidere, have subsequently complied with the Act and the Board Regulations.

## VII. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h)(2004), provides as follows:

In determining the appropriate civil penalty to be imposed under . . . this Section, the Board is authorized to consider any matters of record in mitigation or aggravation of penalty, including but not limited to the following factors:

1. the duration and gravity of the violation;
2. the presence or absence of due diligence on the part of the respondent in attempting to comply with requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;

3. any economic benefits accrued by the respondent because of delay in compliance with requirements, in which case the economic benefits shall be determined by the lowest cost alternative for achieving compliance;
4. the amount of monetary penalty which will serve to deter further violations by the respondent and to otherwise aid in enhancing voluntary compliance with this Act by the respondent and other persons similarly subject to the Act;
5. the number, proximity in time, and gravity of previously adjudicated violations of this Act by the respondent;
6. whether the respondent voluntarily self-disclosed, in accordance with subsection i of this Section, the non-compliance to the Agency; and
7. whether the respondent has agreed to undertake a "supplemental environmental project," which means an environmentally beneficial project that a respondent agrees to undertake in settlement of an enforcement action brought under this Act, but which the respondent is not otherwise legally required to perform.

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

1. The Respondents failed to obtain a construction permit prior to constructing the Appleton Road Sewer Line on June 7, 2004. Respondents did not obtain a construction permit from the Illinois EPA until July 26, 2005. However, Respondents represent that they did not actually use the sewer line to convey wastewater until after they obtained a permit from the Illinois EPA.

2. Respondents were diligent in coming back into compliance with the Act and Board regulations, once the Illinois EPA notified them of their noncompliance. Respondents represent that the failure to obtain a construction permit prior to constructing the Appleton Road Sewer Line was inadvertent. Soon after Respondents were notified by the Illinois EPA that they

needed to obtain a permit, they applied for and received a permit. Additionally, CES and Belvidere have both implemented internal processes to ensure that the appropriate permits are obtained in the future.

3. The failure to obtain a permit prior to construction resulted in no economic benefit to the Respondents. Respondents note that any fees associated with obtaining the permit had already been included in the professional service fee that Belvidere paid to CES for CES' work as the design engineer on the project.

4. Complainant has determined, based upon the specific facts of this matter, that a penalty of Fifteen Thousand Dollars (\$15,000.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

5. To Complainant's knowledge, Respondent, CES, has no previously adjudicated violations of the Act. In 1988, the Board issued three administrative citations against Belvidere for violations related to the Belvidere municipal landfill.

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

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

## **VIII. TERMS OF SETTLEMENT**

### **A. Penalty Payment**

1. The Respondents, CES and Belvidere, shall jointly and severally pay a civil penalty of Fifteen Thousand Dollars (\$15,000.00), within thirty (30) days from the date the Board

adopts and accepts this Stipulation. The Respondents stipulate that payment has been tendered to Respondents' attorneys of record in this matter in a form acceptable to those attorneys. Further, Respondents stipulate that those attorneys have been directed to make the penalty payment on behalf of Respondents, within thirty (30) days from the date the Board adopts and accepts this Stipulation, in a manner prescribed below. The penalty described in this Stipulation shall be paid by certified check, cashier's check, or money order payable to the Illinois EPA, designated to the Illinois Environmental Protection Trust Fund and submitted to:

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

The name and number of the case and Respondent's, CES, Federal Employer Identification Number (FEIN), 36-3808866, shall appear on the check. The name and number of the case and Respondent's, Belvidere, FEIN, 36-6005792, shall appear on Belvidere's check. A copy of the certified check, cashier's check, or money order shall be sent to:

Katherine M. Hausrath  
Assistant Attorney General  
Environmental Bureau  
188 W. Randolph St., 20th Floor  
Chicago, Illinois 60601

2. Pursuant to Section 42(g) of the Act, 415 ILCS 5/42(g) (2004), interest shall accrue on any payment not paid within the time period prescribed above at the maximum rate allowable under Section 1003(a) of the Illinois Income Tax Act, 35 ILCS 511003 (2004). Interest

on any unpaid payment shall begin to accrue from the date the payment is due and continue to accrue until the date payment is received. When partial payment(s) are made, such partial payment shall be first applied to any interest on unpaid payment then due and owing. All interest on payment owed shall be paid by certified check, money order or electronic funds transfer, payable to the Illinois EPA, designated to the Illinois Environmental Protection Trust Fund and delivered to the address and in the manner described above.

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

Kevin Bunge, President  
CES, Inc.  
700 West Locust Street  
Belvidere, Illinois 61008

Fred Brereton  
Mayor  
City of Belvidere  
119 S. State Street  
Belvidere, Illinois 61008

Michael S. Drella  
City Attorney  
City of Belvidere  
119 S. State Street  
Belvidere, Illinois 61008

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

**B. Future Use**

Notwithstanding any other language in this Stipulation to the contrary, and in consideration of the mutual promises and conditions contained in this Stipulation, including the Release from Liability contained in Section VIII.D, below, the Respondents, CES and Belvidere, hereby agree that this Stipulation may be used against the Respondents in any subsequent enforcement action or permit proceeding as proof of a past adjudication of violation of the Act and the Board Regulations promulgated thereunder for all violations alleged in the Complaint in this matter, for purposes of Section 39(a) and (i) and/or 42(h) of the Act, 415 ILCS 5/39(a) and (i) and/or 5/42(h)(2004). Further, Respondents CES and Belvidere, agree to waive any rights to contest, in any subsequent enforcement action or permit proceeding, any allegations that these alleged violations were adjudicated.

**III.C. Cease and Desist**

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

**D. Release from Liability**

In consideration of the Respondents' payment of the \$15,000.00 penalty and any specified costs and accrued interest, to Cease and Desist as contained in Section VIII.C and upon the Pollution Control Board's acceptance and approval of the terms of this Stipulation, the Complainant releases, waives and discharges the Respondents from any further liability or

penalties for violations of the Act and Board Regulations that were the subject matter of the Complaint herein. The release set forth above does not extend to any matters other than those expressly specified in Complainant's Complaint filed on \_\_\_\_\_. The Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against the Respondents, CES and Belvidere, with respect to all other matters, including but not limited to, the following:

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

Nothing in this Stipulation is intended as a waiver, discharge, release, or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the State of Illinois or the Illinois EPA may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 513.315, or entity other than the Respondents.

**E. Enforcement of Board Order**

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

2. Respondents, CES and Belvidere, agree that notice of any subsequent proceeding to enforce the Board Order approving and accepting this Stipulation may be made by mail and waive any requirement of service of process.

3. The parties agree that, if the Board does not approve and accept this Stipulation, then no party is bound by the terms herein.

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

(THE REST OF THIS PAGE LEFT INTENTIONALLY BLANK)

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

PEOPLE OF THE STATE OF ILLINOIS,

LISA MADIGAN  
Attorney General  
State of Illinois

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

BY: Rose Marie Cazeau (es)  
ROSEMARIE CAZEAU, Chief  
Environmental Bureau  
Assistant Attorney General

DATE: 7/12/06

ILLINOIS ENVIRONMENTAL PROTECTION  
AGENCY

BY: Robert A. Messina  
ROBERT A. MESSINA  
Chief Legal Counsel

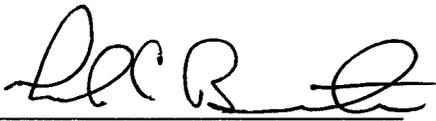
DATE: 7/6/06

CES, INC., an Illinois corporation,

BY: Kevin C. Bunge  
Name: KEVIN C. BUNGE  
Title: PRESIDENT

DATE: 7/19/06

CITY OF BELVIDERE, an Illinois municipal  
corporation,

BY: 

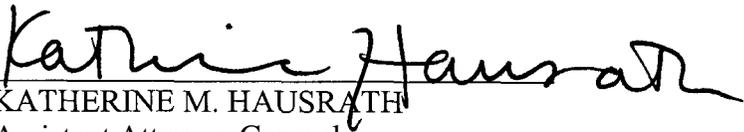
DATE: July 24, 2006

Name: Frederic C. Breerton

Title: Mayor

**CERTIFICATE OF SERVICE**

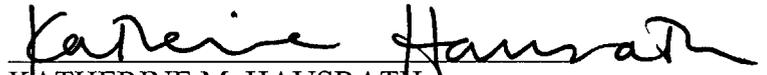
I, KATHERINE M. HAUSRATH, an Assistant Attorney General, do certify that I caused to be mailed, this 1 day of August, 2006, the foregoing Motion to Request Relief from Hearing, Stipulation and Proposal for Settlement as to Respondents CES, Inc. and City of Belvidere, and Notice of Filing, upon the persons listed on said notice, by certified mail.



KATHERINE M. HAUSRATH  
Assistant Attorney General  
Environmental Bureau  
188 West Randolph, 20<sup>th</sup> Floor  
Chicago, IL 60601  
312-814-0660

**CERTIFICATE OF SERVICE**

I, KATHERINE M. HAUSRATH, an Assistant Attorney General, do certify that I caused to be mailed this 1 day of August, 2006, the foregoing Complaint and Notice of Filing upon the persons listed on said notice, by certified mail.



KATHERINE M. HAUSRATH  
Assistant Attorney General  
Environmental Bureau  
188 West Randolph, 20<sup>th</sup> Floor  
Chicago, IL 60601  
312-814-0660