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OCT 02 2007

STATE OF ILLINOIS
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

September 28, 2007

John Therriault
Assistant Clerk of the Board
Illinois Pollution Control Board
James R. Thompson Center, Ste. 11-500
100 West Randolph
Chicago, Illinois 60601

PL608-28

Re: ***People v. City of Jerseyville***

Dear Clerk:

Enclosed for filing please find the original and one copy of a Notice of Filing, Complaint, Motion for Relief from Hearing Requirement and Stipulation and Proposal for Settlement in regard to the above-captioned matter. Please file the originals and return file-stamped copies to me in the enclosed envelope.

Thank you for your cooperation and consideration.

Very truly yours,

Michael D. Mankowski
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706
(217) 782-9031

MDM/pjk
Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.)
)
CITY OF JERSEYVILLE,)
an Illinois municipal corporation,)
)
Respondent.)

PCB No. 08-28
(Water-Enforcement)

NOTICE OF FILING

To: William H. Strang
Attorney at Law
108 N. Lafayette Street
Jerseyville, IL 62052

PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois, a COMPLAINT, MOTION FOR RELIEF FROM HEARING REQUIREMENT and STIPULATION AND PROPOSAL FOR SETTLEMENT, copies of which are attached hereto and herewith served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN,
Attorney General of the
State of Illinois

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

BY: Michael D. Mankowski
MICHAEL D. MANKOWSKI
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: September 28, 2007

CERTIFICATE OF SERVICE

I hereby certify that I did on September 28, 2007, send by First Class Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instruments entitled NOTICE OF FILING, COMPLAINT, MOTION FOR RELIEF FROM HEARING REQUIREMENT and STIPULATION AND PROPOSAL FOR SETTLEMENT:

To: William H. Strang
Attorney at Law
108 N. Lafayette Street
Jerseyville, IL 62052

and the original and ten copies by First Class Mail with postage thereon fully prepaid of the same foregoing instrument(s):

To: Dorothy Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
Suite 11-500
100 West Randolph
Chicago, Illinois 60601


MICHAEL D. MANKOWSKI
Assistant Attorney General

This filing is submitted on recycled paper.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

OCT 02 2007

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.)
)
 CITY OF JERSEYVILLE,)
 an Illinois municipal corporation,)
)
 Respondent.)

PCB No. 08-28
 (Enforcement - Water)

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) (2006), moves that the Illinois Pollution Control 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) (2006). In support of this motion, Complainant states as follows:

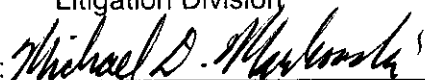
1. The parties have reached agreement on all outstanding issues in this matter.
2. This agreement is presented to the Board in a Stipulation and Proposal for Settlement, filed contemporaneously with this motion.
3. All parties agree that a hearing on the Stipulation and Proposal for Settlement is not 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) (2006).

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) (2006).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS
LISA MADIGAN
ATTORNEY GENERAL

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

BY: 
MICHAEL D. MANKOWSKI
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: September 28, 2007

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
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 v.)
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 CITY OF JERSEYVILLE,)
 an Illinois municipal corporation,)
)
 Respondent.)

PCB No. 08-28
(Water-Enforcement)

COMPLAINT

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

COUNT I

WATER POLLUTION

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 (2006).

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 (2006), and charged, *inter alia*, with the duty of enforcing the Act.

3. This Complaint is brought pursuant to Section 31 of the Act, 415 ILCS 5/31 (2006), after providing the Respondent with notice and the opportunity for a meeting with the Illinois EPA.

4. The Defendant, CITY OF JERSEYVILLE, is an Illinois municipal corporation.

5. On August 3, 2000, the Illinois EPA issued Public Water Supply Construction Permit No. 0068-F2001 to the City of Jerseyville authorizing the installation of approximately 23,000 feet of 16-inch water main.

6. As part of their water main replacement project, the City of Jerseyville operated a construction site located at the corner of Union Forest Road and Pump Station road, approximately three (3) miles northwest of the town of Otterville, Illinois ("site").

7. Section 12 of the Act, 415 ILCS 5/12 (2006), provides the following prohibitions:

No person shall:

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

* * *

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

* * *

8. Section 3.545 of the Act, 415 ILCS 5/3.545 (2006), provides the following definition:

"WATER POLLUTION" is such alteration of the physical, thermal, chemical, biological or radioactive properties of any waters of the State, or such discharge of any contaminant into any waters of the State, as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural,

recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

9. Section 3.165 of the Act, 415 ILCS 5/3.165 (2006), provides the following definition:

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

10. The federal Clean Water Act regulates the discharge of pollutants from a point source into navigable waters and prohibits such point source discharges without an 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 40 CFR 122.26.

11. Storm water discharges are regulated by 40 CFR 122.26, which requires a person to obtain an NPDES permit and to implement a stormwater pollution prevention plan for small construction activity including clearing, grading, and excavating that result in land disturbance of equal to or greater than one acre and less than five acres. Small construction activity also include the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres. 40 CFR 122.26(b)(15)(i).

12. Runoff from the site drains into an unnamed tributary of Otter Creek which is a "water" of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2006).

13. On March 15, 2005, the Illinois EPA received a citizen complaint stating that a pipeline was being installed at the site with no erosion or sediment controls implemented on the disturbed ground.

14. On March 15, 2005, the Illinois EPA inspected the site.
15. On March 15, 2005, areas of ground along the unnamed tributary of Otter Creek, up a steep hillside east of the tributary, between the tributary and the hillside, and an area southwest of the intersection of Union Forest Road and Pump Station Road were disturbed.
16. On March 15, 2005, the site lacked erosion controls adequate to prevent sediment from being discharged into the unnamed tributary. The only erosion control measure present was the placement of rip rap on the west bank of the stream.
17. On June 21, 2005, the Illinois EPA re-inspected the site.
18. On June 21, 2005, the site still lacked adequate erosion controls. The steep slope east of the tributary was unstable and approximately 4-inch or deeper rills had developed from stormwater runoff.
19. On July 22, 2005, the Illinois EPA received a Notice of Intent ("NOI") from the City of Jerseyville for coverage under the NPDES Permit program.
20. On August 22, 2005, the Illinois EPA sent the City of Jerseyville a notice of coverage under NPDES general stormwater permit No. ILR10D595.
21. Commencing on some date prior to March 15, 2005 and continuing until the subsequent implementation of a stormwater pollution prevention plan, the City of Jerseyville caused or allowed the discharge of silt from the construction site into waters of the State so as to cause or tend to cause water pollution.
22. By so causing and threatening to cause water pollution the City of Jerseyville has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2006).

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 JERSEYVILLE:

- 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 and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2006), impose a civil penalty of up to fifty thousand dollars (\$50,000.00) for each violation that occurred, and an additional penalty of ten thousand (\$10,000.00) for each day during which such violations continued; and
- E. Granting such other relief as the Board may deem appropriate.

COUNT II

NPDES PERMIT VIOLATIONS

1-18. Complainant realleges and incorporates herein by reference paragraphs 1 through 18 of Count I as paragraphs 1 through 18 of this Count II.

19. Section 309.102(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a), requires an NPDES permit:

Except as in compliance with the provisions of the Act, Board regulations, and the CWA [Clean Water Act], 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.

20. Section 309.103 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 309.103, requires an applicant for an NPDES Permit to file an application on forms provided by the Illinois EPA.

21. Section 309.243 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 309.243, provides the following:

In addition to specific conditions authorized under this Subpart B, the Agency may impose such conditions in any permit issued pursuant to this Subpart B as may be necessary to accomplish the purposes of the Act, or this Chapter, or the CWA, provided such conditions are not inconsistent with this Chapter.

22. Section 12(f) of the Act, 415 ILCS 5/12(f) (2006), provides that no person shall cause, threaten, or allow the discharge of any contaminant into the waters of the State without an NPDES permit for point source discharges issued by the Illinois EPA.

23. By causing or allowing or threatening the discharge of contaminants into waters of the State without an NPDES permit, the City of Jerseyville has violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2006), and Sections 309.102(a), 309.103 and 309.243 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a), 309.103 and 309.243.

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 JERSEYVILLE:

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 and regulations as alleged herein;

C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2006), impose a civil penalty of up to fifty thousand dollars (\$50,000.00) for each violation that occurred, and an additional penalty of ten thousand (\$10,000.00) for each day during which such violations continued; and

E. Granting such other relief as the Board may deem appropriate.

Respectfully submitted,

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

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

BY: _____

THOMAS DAVIS, Chief
Assistant Attorney General

Of Counsel

MICHAEL D. MANKOWSKI
Assistant Attorney General
500 South Second Street
Springfield, Illinois 62706
217/ 557-0586

Dated: 7/28/07

RECEIVED
CLERK'S OFFICE

OCT 02 2007

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.)
)
 CITY OF JERSEYVILLE,)
 an Illinois municipal corporation,)
)
 Respondent.)

08-28
 PCB No. 07-
 (Water-Enforcement)

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 JERSEYVILLE. ("Respondent"), 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, Respondent agrees 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. (2006).

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 the same day as the entering of 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 (2006), against the Respondent.

2. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2006).

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

B. Site Description

1. On August 3, 2000, the Illinois EPA issued Public Water Supply Construction Permit No. 0068-F2001 to the Respondent authorizing the installation of approximately 23,000 feet of 16-inch water main.

2. At all times relevant to the Complaint, as part of the aforementioned water main replacement project, the Respondent operated a construction site located at the corner of Union Forest Road and Pump Station road, approximately three (3) miles northwest of the town of Otterville, Illinois (“site”).

3. An unnamed tributary of Otter Creek runs parallel to Union Forest Road near the construction site.

4. Runoff from the site drains into the unnamed tributary of Otter Creek.

5. During the construction of the pipeline, the stormwater controls utilized at the site were inadequate to protect the unnamed tributary of Otter Creek.

6. On August 22, 2005, the Illinois EPA sent the City of Jerseyville a notice of coverage under NPDES general stormwater permit No. ILR10D595.

C. Allegations of Non-Compliance

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

- Count I: WATER POLLUTION, in violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2006).
- Count II: NPDES PERMIT VIOLATIONS, in violation of Section 12(f) of the Act, 415 ILCS 5/12(f) (2006) and Sections 309.102(a), 309.103 and 309.243 of

the Board's Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a), 309.103 and 309.243.

D. Admission of Violations

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

E. Compliance Activities to Date

The project is completed. Respondent applied for and was granted coverage under NPDES general stormwater permit No. ILR10D595, by the Illinois EPA, on August 22, 2005. The site has been properly stabilized as required by the Respondent's general stormwater permit.

IV. APPLICABILITY

A. This Stipulation shall apply to and be binding upon the Complainant and the Respondent, 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.

B. No change in ownership, corporate status or operator of the facility shall in any way alter the responsibilities of the Respondent under this Stipulation and Proposal for Settlement. In the event of any conveyance of title, easement or other interest in the facility, the Respondent shall

continue to be bound by and remain liable for performance of all obligations under this Stipulation.

C. In the event that the Respondent proposes to sell or transfer any real property or operations subject to any Order accepting and adopting the terms of this Stipulation and Proposal for Settlement, the Respondent shall notify the Complainant 30 days prior to the conveyance of title, ownership or other interest, including a leasehold interest in the facility or a portion thereof. The Respondent shall make the prospective purchaser or successor's compliance with any Order accepting and adopting the terms of this Stipulation a condition of any such sale or transfer and shall provide a copy of this Stipulation and any Order accepting and adopting the terms of this Stipulation to any such successor in interest. This provision does not relieve the Respondent from compliance with any regulatory requirement regarding notice and transfer of applicable facility permits.

V. COMPLIANCE WITH OTHER LAWS AND REGULATIONS

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, 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) (2006), provides as follows:

In making its orders and determinations, the Board shall take into consideration

all the facts and circumstances bearing upon the reasonableness of the emissions, discharges, or deposits involved including, but not limited to:

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

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

1. The health of the unnamed tributary of Otter Creek, and Otter Creek itself and all people and organisms that rely upon them was endangered by the lack of stormwater controls at the site.
2. There is no economic benefit as a result of the noncompliance in this matter.
3. Construction of the water pipeline was suitable for the area in which it occurred.
4. Using the proper erosion controls at the site and applying for an complying with a General NPDES stormwater permit was both technically practicable and economically reasonable.
5. Respondent has 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) (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 state as follows:

1. The lack of stormwater controls was reported to and observed by the Illinois EPA on March 15, 2005. The Illinois EPA observed no improvement in the stormwater controls on June 21, 2005. Significant erosion was observed in a steep-graded hill near the unnamed tributary of Otter Creek. Sediment control measures were not employed at this location.

2. The Respondent displayed a lack of due diligence in resolving the violations. Following instructions given at the March 15, 2005, inspection and the issuance of a Violation Notice letter, there was no evidence during a follow-up inspection on June 21, 2005, that any measures had been taken to stabilize the site and limit erosion. The Respondent submitted a notice of intent that the Illinois EPA received on July 22, 2005. The Respondent has subsequently established groundcover on the disturbed area near the stream.

3. There was no economic benefit as a result of the noncompliance in this matter.

4. Complainant has determined, based upon the specific facts of this matter, that a penalty of One Thousand and Eighty Dollars (\$1,080.00) will serve as an incentive to the Respondent and other communities involved in construction to obtain the required construction permits and to comply with the terms of the NPDES general stormwater permit.

5. A review of Illinois EPA records does not indicate any previous enforcement action taken by the Illinois EPA against the Respondent.

6. The Respondent did not voluntarily disclose to the Illinois EPA the violations that are the subject of this case.

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

VIII. TERMS OF SETTLEMENT

A. Penalty Payment

1. The Respondent shall pay a civil penalty in the sum of One Thousand and Eighty Dollars (\$ 1,080.00) within thirty (30) days from the date the Board adopts and accepts this

Stipulation. The Respondent stipulates that payment has been tendered to Respondent's attorney of record in this matter in a form acceptable to that attorney. Further, Respondent stipulates that said attorney has been directed to make the penalty payment on behalf of Respondent, 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 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 Federal Employer Identification Number (FEIN), shall appear on the check. A copy of the certified check or money order shall be sent to:

Michael D. Mankowski
Assistant Attorney General
Environmental Bureau
500 South Second Street
Springfield, Illinois 62702

2. Pursuant to Section 42(g) of the Act, 415 ILCS 5/42(g) (2006), 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 5/1003 (2006). 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, the attorney for the Respondent may be reached at the following address:

William H. Strang
108 N. Lafayette Street
Jerseyville, IL 62052

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

Yvonne Hartman, Mayor
City of Jerseyville
City Hall
115 East Prairie Street
Jerseyville, Illinois 62052

5. 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.E, below, the Respondent hereby agrees that 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 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)(2006).

Further, Respondent agrees to waive any rights to contest, in any subsequent enforcement action or permit proceeding, any allegations that these alleged violations were adjudicated.

C. Cease and Desist

The Respondent 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 Respondent's payment of the One Thousand and Eighty Dollar (\$ 1,080.00) penalty and any specified costs and accrued interest, completion of all activities required hereunder, to Cease and Desist as contained in Section VIII.D and upon the Pollution Control Board's acceptance and approval of the terms of this Stipulation and Proposal for Settlement, the Complainant releases, waives and discharges the Respondent from any further liability or penalties for violations of the Act and Board Regulations that were the subject matter of the Complaint herein. The release set forth above does not extend to any matters other than those expressly specified in Complainant's Complaint filed on July 6, 2006. The Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against the Respondent with respect to all other matters, including but not limited to, the following:

- a. criminal liability;
- b. liability for future violation of state, federal, local, and common laws and/or

regulations;

- c. liability for natural resources damage arising out of the alleged violations; and
- d. liability or claims based on the Respondent's failure to satisfy the requirements of

this Stipulation.

Nothing in this Stipulation is intended as a waiver, discharge, release, or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the State of Illinois or the Illinois EPA may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315 (2006), or entity other than the Respondent.

E. Right of Entry

In addition to any other authority, the Illinois EPA, its employees and representatives, and the Attorney General, her agents 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 carrying out inspections. 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.

F. Modification of Stipulation

The parties may, by mutual written consent, agree to extend any compliance dates or modify the terms of this Stipulation. A request for any modification shall be made in writing and submitted to the contact persons identified in Section VIII.A. Any such request shall be made by

separate document, and shall not be submitted within any other report or submittal required by this Stipulation. Any such agreed modification shall be in writing, signed by authorized representatives of each party, and then accompany a joint motion to the Illinois Pollution Control Board seeking a modification of the prior order approving and accepting the Stipulation to approve and accept the Stipulation as amended.

G. Enforcement of Board Order

1. Upon the entry of the Board's Order approving and accepting this Stipulation and Proposal for Settlement, 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. Respondent agrees that notice of any subsequent proceeding to enforce the Board Order approving and accepting this Stipulation and Proposal for Settlement may be made by mail and waives any requirement of service of process.

3. The parties agree that, if the Board does not approve and accept this Stipulation and Proposal for Settlement, then neither party is bound by the terms herein.

4. It is the intent of the Complainant and Respondent that the provisions of this Stipulation and Proposal for Settlement 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.

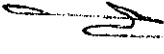
WHEREFORE, Complainant and Respondent request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

PEOPLE OF THE STATE OF ILLINOIS,

LISA MADIGAN
Attorney General
State of Illinois

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

BY:



THOMAS DAVIS, Chief
Environmental Bureau
Assistant Attorney General

DATE: 8/15/07

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

BY:




ROBERT A. MESSINA
Chief Legal Counsel

DATE: 9/24/07

CITY OF JERSEYVILLE

BY:



Name: Yvonne HARTMANN

Title: Mayor

DATE: 09-11-07