

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
<i>ex rel.</i> LISA MADIGAN, Attorney)	
General of the State of Illinois,)	
)	
Complainant,)	PCB No.
)	(Enforcement –Water)
vs.)	
)	
NORTHWEST ILLINI FEEDLOTS)	
CORPORATION, an Illinois corporation,)	
)	
Respondent.)	

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency, complains of Respondent NORTHWEST ILLINI FEEDLOTS CORPORATION, an Illinois corporation, as follows:

COUNT I
DISCHARGE OF CONTAMINANTS

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 (the “Act”).

2. The Illinois EPA is an administrative agency of the State of Illinois, created by Section 4 of the Act, 415 ILCS 5/4 (2010), and charged, *inter alia*, with the duty of enforcing the Act.

3. At all times relevant to this Complaint, Respondent, NORTHWEST

ILLINI FEEDLOTS CORPORATION (“NWIF”) was and is an Illinois corporation and in good standing with the State of Illinois.

4. At all times relevant to this Complaint, the Respondent owned and operated a 4,700-head cattle operation (the “Facility”) located at 12490 Illinois Route 73, Post Office Box 61, Lanark, Carroll County, Illinois 61046.

5. The Facility consists of at least two large animal housing units, and a seven-acre livestock waste and storm water storage lagoon.

6. The Respondent is also the owner of thirty acres of cropland immediately north of the Lanark city limits upon which cattle manure from the Facility was applied prior to July, 2007 (the “Field Site”).

7. Pursuant to 40 C.F.R. § 122.23, Concentrated Animal Feeding Operations, the Facility is considered a large concentrated animal feeding operation (“CAFO”) for which the Respondent has an National Pollutant Discharge Elimination System (“NPDES”) permit (Permit # IL0061581). (Exhibit A, hereto)

8. On July 23, 2010, a representative of NWIF advised the Illinois EPA that the area around the Facility had received substantial rainfall, flooding many creeks and road ditches. The NWIF representative reported that the Facility had received 6.75 inches of rain that day and that NWIF was placing large straw bales in road ditches near the Facility to try and divert storm water from entering NWIF’s seven acre livestock waste and storm water storage lagoon. NWIF reported that it had approximately 12 inches of freeboard in the lagoon as of July 23rd.

9. On July 24, 2010, a representative of NWIF again contacted the Illinois EPA to report that the area around the Facility had received another 5.75 inches of rain

the previous night; that substantial volumes of storm water had entered the pond despite NWIF's efforts to divert flows; and that NWIF's livestock waste and storm water storage lagoon was now full and overflowing its berm.

10. When an Illinois EPA representative visited the Facility on the morning of July 24, 2011, he observed that:

a. the area where the overflow was occurring was approximately 75 feet from the southwest corner of the lagoon and Straddle Creek was within two feet of the top of the berm creating the lagoon;

b. the water in nearby Straddle Creek was flowing extremely fast and the Creek had overflowed its banks on the opposite side into an adjacent farm field;

c. approximately 5-6 feet of the 15 – 18 foot wide lagoon berm had been eroded away;

d. a vortex was seen on the lagoon side of the berm indicating a substantial volume of wastewater was escaping the lagoon through the berm and a gushing sound caused by water escaping the berm could be heard;

e. using a PVC pipe as a probe it was estimated that there was a hole 2-2 ½ feet in diameter on the lagoon side of the berm;

f. although excavating firms contacted by NWIF arrived at the Facility, it was determined by NWIF that it was unsafe to attempt to repair the hole at that time given the flooding conditions.

The Illinois EPA representative concluded that the discharge from the waste water storage lagoon into the Creek was the result of a rodent burrow hole.

11. On August 6, 2010, an NWIF representative reported that repairs to the berm were completed and the discharge halted around 4:00 p.m. on July 30, 2010. The NWIF representative further reported that the lagoon had been drained of much of its contents to allow for the repairs by pumping the material onto a nearby previously harvested farm field; that some of the water pumped to the field ultimately drained into a ditch that discharges to Straddle Creek; and that much of the pumped water probably entered Straddle Creek due to saturated soil conditions.

12. On August 10, 2010, an Illinois EPA representative revisited the site. At that time, NWIF representatives reported that approximately 2,275,000 gallons of waste water had been discharged from the lagoon into Straddle Creek and that a small tree had roots established in the damaged area of the berm.

13. Section 12(a) of the Act, 415 ILCS 5/12(a) (2010), provides in pertinent part as follows:

No person shall:

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

14. Section 3.315 of the Act, 415 ILCS 5/3.315 (2010), 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.

15. Respondent, NWIF, is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2010).

16. Section 3.165 of the Act, 415 ILCS 5/3.165 (2010), provides as follows:

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

17. Livestock waste from the Respondent’s cattle facility is a “contaminant” as that term is defined by Section 3.165 of the Act, 415 ILCS 5/3.165 (2010).

18. Section 3.545 of the Act, 415 ILCS 5/3.545 (2010), provides as follows:

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

19. Section 3.550 of the Act, 415 ILCS 5/3.550 (2010), provides as follows:

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

20. Straddle Creek is “water[s]” as the term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2010).

21. By allowing its livestock waste lagoon berm to fail and discharge waste water to waters of the State, Respondent caused, threatened, and/or allowed “water pollution,” as the term is defined by Section 3.545 of the Act, 415 ILCS 5/3.545 (2010).

22. By causing, threatening, and/or allowing “water pollution” the Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, NORTHWEST ILLINI FEEDLOTS CORPORATION, on this Count I:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer to all the allegations herein;

2. Finding that the Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2010);

3. Ordering the Respondent to cease and desist from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2010);

4. Assessing a civil penalty against the Respondent of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent regulations, and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Ordering the Respondent pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), to pay all costs expended by the State in its pursuit of this action, including attorney, expert witness, and consultant fees; and

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

COUNT II
CREATING A WATER POLLUTION HAZARD

1.-20. Complainant realleges and incorporates by reference herein paragraphs 1 through 20 of Count I as paragraphs 1 through 20 of this Count II.

21. Section 12(d) of the Act, 415 ILCS 5/12(d) (2010), provides, in pertinent part, as follows:

No person shall:

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

22. Respondent dewatered its livestock waste and storm water storage lagoon by pumping waste water out of the lagoon and onto a nearby field in such manner that allowed some of the waste water to ultimately drain into Straddle Creek.

23. By pumping waste water out of the lagoon and onto a nearby field in such manner that allowed some of the waste water to ultimately drain into Straddle Creek, Respondent created a water pollution hazard, in violation of Section 12(d) of the Act, 415 ILCS 5/12(d) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, NORTHWEST ILLINI FEEDLOTS CORPORATION, on this Count II:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer to the allegations herein;

2. Finding that the Respondent has violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2010);

3. Ordering the Respondent to cease and desist from any further violations of Section 12(d) of the Act, 415 ILCS 5/12(a) (2010);

4. Assessing a civil penalty against the Respondent of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent regulations, and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Ordering the Respondent pursuant to Section 42(f) of the Act, 415 ILCS

5/42(f) (2010), to pay all costs expended by the State in its pursuit of this action, including attorney, expert witness, and consultant fees; and

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

COUNT III
VIOLATIONS OF NPDES PERMIT

1.-20. Complainant realleges and incorporates by reference herein paragraphs 1 through 20 of Count I as paragraphs 1 through 20 of this Count III.

21. Section 12(f) of the Act, 415 ILCS 5/12(f) (2010), provides, in pertinent part, as follows:

No person shall:

- a. 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.

22. The NPDES Permit provides, in pertinent part, as follows:

DISCHARGE LIMITATIONS AND OPERATING REQUIREMENTS
FOR LIVESTOCK MANAGEMENT FACILITIES

1. **Discharge Limitations**

- a. (T)he permittee shall not discharge livestock wastes (including feedlot runoff) to waters of the State except overflow from livestock waste handling facilities that is caused by catastrophic precipitation events

- b. Livestock waste handling facilities that are exposed to precipitation or collect feedlot runoff or other runoff, shall be maintained in a state of availability to contain the precipitation and

runoff from a 25-year, 24 hour precipitation event (i.e., 5.0 inches in 24-hours).

* * *

2. Field Application of Livestock Wastes

* * *

d. Livestock wastes shall be applied to land within the following guidelines:

- i. Livestock wastes shall not be discharged to waters of the State or waterways.
- ii. Livestock waste application shall not be permitted upon land which has been intensely wetted by rainfall within the 24 hour period preceding the intended application time.
- iii. Livestock waste application shall not be permitted on land with ponded water.

23. By allowing its livestock waste and storm water storage lagoon berm to fail and discharge waste water to waters of the State, Respondent violated the above-referenced terms of its NPDES Permit governing Discharge Limitations.

24. By pumping waste water out of the lagoon and onto a nearby field in such manner that allowed some of the waste water to ultimately drain into Straddle Creek, Respondent violated the terms of its NPDES Permit referenced above governing Field Application of Livestock Wastes.

25. By allowing its livestock waste and storm water storage lagoon berm to fail and discharge waste water to waters of the State and by pumping waste water out of the lagoon and onto a nearby field in such manner that allowed some of the waste water to ultimately drain into Straddle Creek, Respondent violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, NORTHWEST ILLINI FEEDLOTS CORPORATION, on this Count III:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer to the allegations herein;
2. Finding that the Respondent has violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2010);
3. Ordering the Respondent to cease and desist from any further violations of Section 12(f) of the Act, 415 ILCS 5/12(f) (2010);
4. Assessing a civil penalty against the Respondent of Ten Thousand Dollars (\$10,000.00) for each day of violation;
5. Ordering the Respondent pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), to pay all costs expended by the State in its pursuit of this action, including attorney, expert witness, and consultant fees; and
6. Granting such other relief as the Board deems appropriate and just.

COUNT IV

FAILURE TO MAINTAIN RELIABLE POLLUTION CONTROL SYSTEMS

1.-20. Complainant realleges and incorporates by reference herein paragraphs 1 through 20 of Count I as paragraphs 1 through 20 of this Count IV.

21. The U.S. Environmental Protection Agency delegated the authority to administer the NPDES program to the State of Illinois, conditioned upon its compliance with federal regulations. The State of Illinois issues NPDES permits through the Illinois EPA.

22. Pursuant to authority granted in Sections 13 and 27 of the Act, 415 ILCS 5/13 and 5/27 (2010), the Illinois Pollution Control Board (the "Board") has promulgated rules and regulations to control water pollution in Illinois, codified at 35 Ill. Adm. Code Subtitle C, Chapter I of the Illinois Administrative Code ("Board Water Pollution Regulations").

23. Section 306.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 306.102(a), provides as follows:

Systems Reliability

a) **Malfunctions:** All treatment works and associated facilities shall be so constructed and operated as to minimize violations of applicable standards during such contingencies as flooding, adverse weather, power failure, equipment failure, or maintenance, through such measures as multiple units, holding tanks, duplicate power sources, or such other measures as may be appropriate.

24. Respondent failed to employ adequate measures to prevent the discharge of livestock wastes to waters of the State during adverse weather conditions and flooding.

25. By failing to employ adequate measures to prevent the discharge of livestock wastes to waters of the State during adverse weather conditions and flooding, Respondent violated 35 Ill. Adm. Code 306.102(a) and thereby Section 12(a) of the Act 415 ILCS 5/12(a) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, NORTHWEST ILLINI FEEDLOTS CORPORATION, on this Count IV:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer to the allegations herein;

2. Finding that the Respondent has violated 35 Ill. Adm. Code 306.102(a) and thereby Section 12(a) of the Act 415 ILCS 5/12(a) (2010);
3. Ordering that the Respondent cease and desist from any further violations of 35 Ill. Adm. Code 306.102(a) and thereby Section 12(a) of the Act 415 ILCS 5/12(a) (2010);
4. Assessing a civil penalty against the Respondent of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent regulations, and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
5. Ordering the Respondent pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), to pay all costs expended by the State in its pursuit of this action, including attorney, expert witness, and consultant fees; and
6. Granting such other relief as the Board deems appropriate and just.

COUNT V

FAILURE TO DIVERT CLEAN STORM WATER

1.-22. Complainant realleges and incorporates by reference herein paragraphs 1 through 22 of Count IV as paragraphs 1 through 22 of this Count V.

23. Section 501.403(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 501.403(a), provides as follows:

Protection of Livestock Management Facilities and Livestock Waste-Handling Facilities

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

or a livestock waste-handling facility. If inadequate diversions cause or threaten to cause a violation of the Act or applicable regulations, the Agency may require corrective measures.

24. Respondent failed to provide adequate curbing or other structures to divert clean storm water from entering its livestock waste and storm water storage lagoon.

25. By failing to provide adequate curbing or other structures to divert clean storm water from entering its livestock waste and storm water storage lagoon, Respondent violated 35 Ill. Adm. Code 501.403(a) and thereby Section 12(a) of the Act 415 ILCS 5/12(a) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, NORTHWEST ILLINI FEEDLOTS CORPORATION, on this Count V:

1. Authorizing a hearing in this matter at which time the Respondents will be required to answer to the allegations herein;

2. Finding that the Respondent has violated 35 Ill. Adm. Code 501.403(a) and thereby Section 12(a) of the Act 415 ILCS 5/12(a) (2010);

3. Ordering that the Respondent cease and desist from any further violations of 35 Ill. Adm. Code 501.403(a) and thereby Section 12(a) of the Act 415 ILCS 5/12(a) (2010);

4. Assessing a civil penalty against the Respondent of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent regulations, and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Ordering the Respondent pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), to pay all costs expended by the State in its pursuit of this action, including attorney, expert witness, and consultant fees; and

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

COUNT VI

FAILURE TO KEEP HOLDING POND IMPERMEABLE OR SEALED

1.-22. Complainant realleges and incorporates by reference herein paragraphs 1 through 22 of Count IV as paragraphs 1 through 22 of this Count VI.

23. Section 501.404(c)(2) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 501.404(c)(2), provides as follows:

c) Livestock Waste-Holding Facilities

* * *

2) Holding ponds and lagoons shall be impermeable or so sealed as to prevent groundwater or surface water pollution.

24. Respondent failed to ensure that its livestock waste and storm water storage lagoon was impermeable or sealed to prevent surface water pollution.

25. By failing to ensure that its livestock waste lagoon was impermeable or sealed to prevent surface water pollution, Respondent violated 35 Ill. Adm. Code 501.404(c)(2) and thereby Section 12(a) of the Act 415 ILCS 5/12(a) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, NORTHWEST ILLINI FEEDLOTS CORPORATION, on this Count VI:

1. Authorizing a hearing in this matter at which time the Respondents will be required to answer to the allegations herein;

2. Finding that the Respondent has violated 35 Ill. Adm. Code 501.404(c)(2) and thereby Section 12(a) of the Act 415 ILCS 5/12(a) (2010);

3. Ordering that the Respondent cease and desist from any further violations of 35 Ill. Adm. Code 501.404(c)(2) and thereby Section 12(a) of the Act 415 ILCS 5/12(a) (2010);

4. Assessing a civil penalty against the Respondent of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent regulations, and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Ordering the Respondent pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), to pay all costs expended by the State in its pursuit of this action, including attorney, expert witness, and consultant fees; and

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

COUNT VII

FAILURE TO KEEP ADEQUATE WASTE STORAGE CAPACITY

1.-22. Complainant realleges and incorporates by reference herein paragraphs 1 through 22 of Count IV as paragraphs 1 through 22 of this Count VII.

23. Section 501.404(c)(4)(A) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 501.404(c)(4)(A), provides as follows:

c) Livestock Waste-Holding Facilities

* * *

4) Liquid Livestock Waste

A) Existing livestock management facilities which handle the waste in a liquid form shall have adequate storage capacity in a liquid manure-holding tank, lagoon, holding pond, or any combination thereof so as not to cause air or water

pollution as defined in the Act or applicable regulations. If inadequate storage time causes or threatens to cause a violation of the Act or applicable regulations, the Agency may require that additional storage time be provided. In such cases, interim pollution prevention measures may be required by the Agency.

24. Respondent failed to have adequate capacity in its liquid livestock waste and storm water storage lagoon to prevent water pollution.

25. By failing to have adequate capacity in its liquid livestock waste storage lagoon to prevent water pollution, Respondent violated 35 Ill. Adm. Code 501.404(c)(4)(A) and thereby Section 12(a) of the Act, 415 ILCS 5/12(a) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, NORTHWEST ILLINI FEEDLOTS CORPORATION, on this Count VII:

1. Authorizing a hearing in this matter at which time the Respondents will be required to answer to the allegations herein;

2. Finding that the Respondent has violated 35 Ill. Adm. Code 501.404(c)(4)(A) and thereby Section 12(a) of the Act 415 ILCS 5/12(a) (2010);

3. Ordering that the Respondent cease and desist from any further violations of 35 Ill. Adm. Code 501.404(c)(4)(A) and thereby Section 12(a) of the Act 415 ILCS 5/12(a) (2010);

4. Assessing a civil penalty against the Respondent of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent regulations, and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Ordering the Respondent pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), to pay all costs expended by the State in its pursuit of this action, including attorney, expert witness, and consultant fees; and

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

COUNT VIII

EXCEEDANCE OF FIELD APPLICATION LIMITS

1.-22. Complainant realleges and incorporates by reference herein paragraphs 1 through 22 of Count IV as paragraphs 1 through 22 of this Count VIII.

23. Section 501.405(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 501.405(a), provides as follows:

Field Application of Livestock Waste

a) The quantity of livestock waste applied on soils shall not exceed a practical limit as determined by soil type, especially its permeability, the condition (frozen or unfrozen) of the soil, the percent slope of the land, cover mulch, proximity to surface waters and likelihood of reaching groundwater, and other relevant considerations. These livestock waste application guidelines will be adopted pursuant to Section 502.305, unless otherwise provided for by Board regulations.

24. Respondent pumped the contents of its livestock waste and storm water storage lagoon onto a nearby field in such manner to allow some of the pumped water to ultimately drain into a ditch that discharges to Straddle Creek and in such manner that much of the pumped water probably entered Straddle Creek due to saturated soil conditions.

25. By pumping the contents of its waste lagoon onto a nearby field in such manner to allow some of the pumped water to ultimately drain into a ditch that discharges to Straddle Creek and in such manner that much of the pumped water probably entered

Straddle Creek due to saturated soil conditions, Respondent violated 35 Ill. Adm. Code 501.405(a) and thereby Section 12(a) of the Act 415 ILCS 5/12(a). (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, NORTHWEST ILLINI FEEDLOTS CORPORATION, on this Count VIII:

1. Authorizing a hearing in this matter at which time the Respondents will be required to answer to the allegations herein;
2. Finding that the Respondent has violated 35 Ill. Adm. Code 501.405(a) and thereby Section 12(a) of the Act 415 ILCS 5/12(a) (2010);
3. Ordering that the Respondent cease and desist from any further violations of 35 Ill. Adm. Code 501.405(a) and thereby Section 12(a) of the Act 415 ILCS 5/12(a) (2010);
4. Assessing a civil penalty against the Respondent of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent regulations, and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
5. Ordering the Respondent pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), to pay all costs expended by the State in its pursuit of this action, including attorney, expert witness, and consultant fees; and
6. Granting such other relief as the Board deems appropriate and just.

COUNT IX
AIR POLLUTION

1-11. Complainant realleges and incorporates by reference herein paragraphs 1 through 7 and 14 through 17 of Count I as paragraphs 1 through 11 of this Count IX.

12. On June 5, 2007, Illinois EPA investigated livestock waste odor complaints involving the Respondent's Facility. In addition to the odor complaints, Illinois EPA also received complaints about livestock manure being dragged out of the Facility and onto Route 73 by trucks transporting wastes, resulting in, among other things, manure being spilled and left to accumulate on the shoulders of the road.

13. During its investigation on June 5, 2007, Illinois EPA determined that:

a. On that date, livestock waste was being surface applied to Respondent's Field Site.

b. The direction of the wind on June 4 and 5, 2007 was from the north (toward Lanark) at approximately 10-15 mph.

c. The Facility had approximately 30-45 days worth of manure storage capacity for the 4,700 cattle reported to be at the Facility at the time of the inspection. The Facility's manure storage was full and near overflowing at the time the cattle manure was being land applied to the Field Site on June 5, 2007.

d. A trip past the open feedlots in existence at the time (particularly lots #18, #19, and #20) exhibited a stench. The feedlot had received recent precipitation and was muddy. Drainage from these lots was poor at the south end and resulted in excessive mud and dirty animals.

14. On June 5, 2007, there were complaints from the citizens of Lanark of the strength of the odor coming from the Field Site.

15. Section 9(a) of the Act, 415 ILCS 5/9(a) (2010), provides in pertinent part as follows:

No person shall:

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

16. Section 3.115 of the Act, 415 ILCS 5/3.115 (2010), contains the following definition:

"AIR POLLUTION" is the presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property.

17. Section 501.102(d), Agriculture Related Water Pollution Policy, 35 Ill. Adm. Code 501.102(d), provides as follows:

(d) It is hereby determined that the construction, establishment and operation of livestock management facilities and livestock waste-handling facilities without environmental planning and safeguards or the use of livestock wastes for agricultural purposes causes, *threatens or allows air pollution, the discharge of contaminants into the air of Illinois in sufficient quantities and of such characteristics and duration as to be injurious to human, plant or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property.* (Ill. Rev. Stat. ch. 111 1/2 par. 1003.2) It is recognized that the presence of odor is an inherent characteristic of livestock management facilities and livestock waste-handling facilities, and that the detection of such odor does not per se constitute air pollution.

18. The odor created by the Facility that caused complaints to be called in to Illinois EPA, is indicative of the fact that NWIF discharged contaminants in sufficient quantities so as to, at the very least, unreasonably interfere with the enjoyment or property of Lanark's citizens.

19. Section 501.405(b) of the Board's Operational Rules for Livestock Waste Handling Facilities, 35 Ill. Adm. Code 501.405(b), provides:

(b) Operators of livestock waste handling facilities shall practice odor control methods during the course of manure removal and field application so as not to affect a neighboring farm or non-farm residence or populated area by causing air pollution as described in Section 501.102(d). Odor control methods include, but are not limited to,

1) Soil injection or other methods of incorporation of waste into the soil including disking or plowing;

2) Consideration of climatic conditions including wind direction and inversions;

3) For liquid livestock waste: whether supernatant which is used for irrigation purposes has been stored in a livestock waste lagoon system which is designed and operated in accordance with "Design of Anaerobic Lagoons for Animal Waste Management", as incorporated by reference at Section 501.200.

4) Other methods as described in "Control of Manure Odors", as incorporated by reference at Section 501.200.

20. By failing to conduct the land application of livestock waste in one of the manners provided in 35 Ill. Adm. Code 501.405(b), or any other manner so as to minimize air pollution to neighboring farms or residences, the Respondent violated 35 Ill. Adm. Code 501.405(b) and Section 9(a) of the Act, 415 ILCS 5/9(a)(2010).

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Court enter an order against the Respondent, NORTHWEST ILLINI FEEDLOTS CORPORATION, on this Count IX:

1. Finding that the Respondent has violated 35 Ill. Adm. Code 501.405(b) and Section 9(a) of the Act, 415 ILCS 5/9(a) (2010);
2. Ordering the Respondent to cease and desist from any further violations of 35 Ill. Adm. Code 501.405(b) and Section 9(a) of the Act, 415 ILCS 5/9(a)(2010);
3. Assessing a civil penalty against the Respondent of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent regulations, and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
4. Ordering the Respondent pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), to pay all costs expended by the State in its pursuit of this action, including attorney, expert witness, and consultant fees; and
5. Granting such other relief as the 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: Matthew J. Dunn
MATTHEW J. DUNN, Chief
Environmental Enforcement/
Asbestos Litigation Division

Of Counsel:

George D. Theophilos
Assistant Attorney General
Environmental Bureau
69 W. Washington, Suite 1800
Chicago, Illinois 60602
(312) 814-6986

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
ex rel. **LISA MADIGAN, Attorney**)
General of the State of Illinois,)
)
Complainant,)
)
vs.)
)
NORTHWEST ILLINI FEEDLOTS)
CORPORATION, an Illinois corporation,)
)
Respondent.)

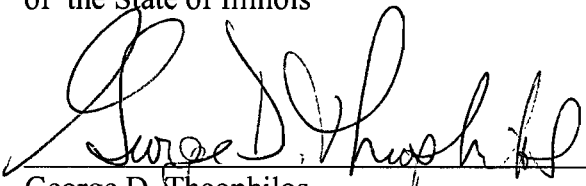
PCB No.
(Enforcement –Water)

NOTICE OF FILING

To: See attached Service List

PLEASE TAKE NOTICE that on the 8th day of June, 2012, the People of the State of Illinois, filed with the Illinois Pollution Control Board, a MOTION FOR RELIEF FROM HEARING REQUIREMENT and a STIPULATION AND PROPOSAL FOR SETTLEMENT, true and correct copies of which are attached hereto and is hereby served upon you.

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

By: 

George D. Theophilos
Assistant Attorney General
Environmental Bureau
69 West Washington Street, 18th Fl.
Chicago, IL 60602
(312) 814-6986
gtheophilos@atg.state.il.us

DATE: June 8, 2012

THIS FILING IS SUBMITTED ON RECYCLED PAPER

SERVICE LIST

Mr. Bradley Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center, Suite 11-500
Chicago, IL 60601
halloranb@ipcb.state.il.us]

Ms. Richard Palmer, Esq.
Counsel for Respondent
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palmer@wmpj.com

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Assistant Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276
charles.gunnarson@illinois.gov

Krystyna Bednarczyk
Assistant Attorney General
Environmental Bureau
69 West Washington Street, 18th Fl.
Chicago, IL 60602
(312) 814-1511
kbednarczyk@atg.state.il.us

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
<i>ex rel.</i> LISA MADIGAN, Attorney)	
General of the State of Illinois,)	
)	
Complainant,)	PCB No.
)	(Enforcement –Water)
vs.)	
)	
NORTHWEST ILLINI FEEDLOTS)	
CORPORATION, an Illinois corporation,)	
)	
Respondent.)	

MOTION FOR 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 hereby moves for relief from the hearing requirement in this case pursuant to Section 31(c)(2) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31(c)(2) (2010), and Section 103.300 of the Illinois Pollution Control Board (“Board”) Procedural Rules, 35 Ill. Adm. Code 103.300. In support of this Motion, the Complainant states as follows:

1. Section 31(c)(2) of the Act allows the parties in certain enforcement cases to request relief from the mandatory hearing requirement where the parties submit to the Board a Stipulation and Proposal for Settlement. Section 31(c)(2) provides as follows:

Notice; complaint; hearing.

* * *

(c)(2) 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).

2. Board Procedural Rule 103.300 provides, in relevant part, as follows (emphasis in original):

Request for Relief from Hearing Requirement in State Enforcement Proceeding.

(a) *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 proposed stipulation and settlement accompanied by a request for relief from the requirement of a hearing pursuant to Section 31(c)(2) of the Act*

3. On June 8, 2012, the Complaint in this matter was filed with the Board.

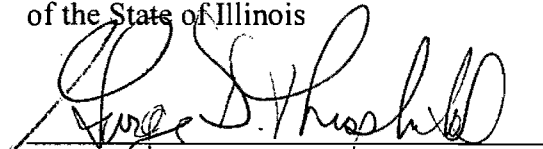
4. The parties to this action reached agreement on a Stipulation and Proposal For Settlement, which is being filed with the Board concurrently with this motion. No hearing is currently scheduled in this case.

WHEREFORE, the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, respectfully moves for relief from the requirement of a hearing pursuant to Section 31(c)(2) of the Act and Board Procedural Rule 103.300.

Respectfully submitted,

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

BY:



GEORGE D. THEOPHILOS
Assistant Attorney General
Environmental Bureau/North
69 West Washington Street, Suite 1800
Chicago, Illinois 60602
312-814-6986
gtheophilos@atg.state.il.us

DATE: June 8, 2012

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB No. 12-
)	(Enforcement - Water)
NORTHWEST ILLINI FEEDLOTS)	
CORPORATION, an Illinois corporation,)	
)	
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 Northwest Illini Feedlots Corporation (“Respondent”), (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.* (2010), 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, 2012, 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 (2010), 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 (2010).

3. At all times relevant to the Complaint, Respondent was and is an Illinois corporation that is authorized to transact business in the State of Illinois.

4. At all times relevant to the Complaint, Respondent owned and operated a 4,700 head cattle feedlot located at 12490 Illinois Route 73, Post Office Box 61, Lanark, Carroll County, Illinois 61046 (the "Facility"). The Facility consists of at least two large animal housing units, and a seven-acre livestock waste and storm water storage lagoon.

5. The Respondent is also the owner of thirty acres of cropland immediately north of the Lanark city limits upon which, prior to July, 2007, cattle manure from the Facility was applied. From and after June, 2007, no cattle manure has been applied to those acres.

6. Pursuant to 40 C.F.R. §122.23, Concentrated Animal Feeding Operations, the Facility is considered a large concentrated animal feeding operation ("CAFO") for which the Respondent has a National Pollutant Discharge Elimination System ("NPDES") permit (Permit # IL0061581).

7. Between July 23 and 24, 2010, during a period of heavy rainfall, the berm around Respondent's seven acre livestock waste and storm water storage lagoon failed and resulted in the discharge of waste water from the lagoon to flow into neighboring Straddle Creek.

8. During the month of June, 2007, Illinois EPA investigated livestock waste odor complaints involving the storage and land application of livestock waste from the Respondent's Facility.

B. Allegations of Non-Compliance

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

- COUNT I Causing, threatening, and/or allowing water pollution in violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2010), by allowing its livestock waste lagoon berm to fail and discharge waste water to waters of the State.
- COUNT II Creating a water pollution hazard in violation of Section 12(d) of the Act, 415 ILCS 5/12(d) (2010), by allowing livestock waste to be deposited on the ground through its lagoon dewatering processes in such manner as to allow the pumped waste water to ultimately run off into Straddle Creek.
- COUNT III Failing to comply with the Field Application of Livestock Waste provisions and Discharge Limitations of its NPDES Permit in violation of Section 12(f) of the Act, 415 ILCS 5/12(f) (2010), and 35 Ill. Adm. Code 309.102(a).
- COUNT IV Failing to employ adequate measures to prevent the discharge of livestock wastes to waters of the State during adverse weather conditions and flooding in violation of 35 Ill. Adm. Code 306.102(a) and thereby Section 12(a) of the Act.
- COUNT V Failing to provide adequate curbing or other structures to divert clean storm water from entering its livestock lagoon violation of 35 Ill. Adm. Code 501.403(a) and thereby Section 12(a) of the Act.
- COUNT VI Failing to ensure that its livestock waste lagoon was impermeable or sealed to prevent surface water pollution in violation of 35 Ill. Adm. Code 501.404(c)(2) and thereby Section 12(a) of the Act.
- COUNT VII Failing to leave adequate capacity in its liquid livestock waste storage lagoon to prevent water pollution in violation of 35 Ill. Adm. Code 501.404(c)(4)(A) and thereby Section 12(a) of the Act.
- COUNT VIII Pumping the contents of its waste lagoon onto a nearby field in such manner to allow some of the pumped water to ultimately drain into a ditch that discharges to Straddle Creek in violation of 35 Ill. Adm. Code 501.405(a) and thereby Section 12(a) of the Act 415 ILCS 5/12(a) (2010).
- COUNT IX Failing to conduct the land application of livestock waste in such manner as to minimize air pollution to neighboring farms or residences in

violation of 35 Ill. Adm. Code 501.405(b) and thereby Section 9(a) of the Act, 415 ILCS 5/9(a)(2010).

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

With regard to the July, 2010 breach in the berm surrounding its livestock waste lagoon, Respondent conducted an engineering evaluation of the entire berm structure and made final repairs to the berm breach. The berm was also re-contoured to provide for easier mowing; inappropriate vegetation was removed; and a new vegetative cover was sown. In addition, Respondent installed diversion dikes and culverts to reroute clean storm water away from the lagoon.

With regard to the livestock waste odor complaints received in June, 2007, Respondent submitted to the Illinois EPA, and subsequently implemented, a Nutrient Management Plan and an Odor Control Plan with odor control alternatives for the Facility.

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 (2010).

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

Section 33(c) of the Act, 415 ILCS 5/33(c) (2010), 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. Human health and the environment were threatened by the Respondent's violations.
2. There is social and economic benefit to the Facility.
3. Operation of the Facility was suitable for the area in which it occurred.
4. Operating the Facility in compliance with the terms of its NPDES Permit is both technically practicable and economically reasonable.

5. Respondent has subsequently complied with the Act and the Board regulations.

IV. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h) (2010, *effective as of August 23, 2011*),

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:

1. Respondent was diligent in attempting to come back into compliance with the Act, Board regulations and applicable federal regulations, once the Illinois EPA notified it of its noncompliance.

2. Any avoided costs involved with the violations in this matter would relate to Respondent's failure to properly maintain its lagoon berm. Avoided costs would include mowing vegetative cover and otherwise removing any large rooted plants that may have established themselves on the berm. Based upon the overall appearance of the berm, some vegetative cover, at least, was being established and maintained on the berm. Since it appears that Respondent historically performed some maintenance of vegetation on the berm, the avoided costs in this matter would be negligible.

3. Complainant has determined, based upon the specific facts of this matter, that a penalty of Six Thousand, Five Hundred Dollars (\$6,500.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

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

5. Respondent voluntarily notified Illinois EPA of the lack of freeboard in its waste and storm water storage lagoon due to excessive precipitation events. Respondent was unaware of the breach in the lagoon until Illinois EPA inspected the lagoon with Respondent after receiving notification from the Respondent of the freeboard condition in the lagoon.

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

7. A Compliance Commitment Agreement was proposed by Respondent, but rejected by the Illinois EPA.

V. TERMS OF SETTLEMENT

A. Penalty Payment

1. The Respondent shall pay a civil penalty in the sum of Six Thousand, Five Hundred Dollars (\$6,500.00) 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.

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, case number and the Respondent's federal tax identification 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:

George D. Theophilos
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602

D. Future Compliance

1. 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.

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

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

E. Release from Liability

In consideration of the Respondent's payment of the \$6,500.00 penalty and its

commitment to cease and desist as contained in Section V.D.2 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, 2012. 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. 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. This Stipulation may be executed by the parties in one or more counterparts, all of which taken together shall constitute one and the same instrument. This Stipulation shall become effective only when executed by all Parties to the Stipulation and

accepted by the Board.

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

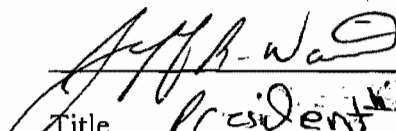
BY: _____
MATTHEW J. DUNN, Chief

BY: _____
JOHN J. KIM, Interim Director

DATE: _____

DATE: _____

NORTHWEST ILLINI FEEDLOTS
CORPORATION



Title President

DATE: 5/16/12


accepted by the Board.

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

BY: 
MATTHEW J. DUNN, Chief

BY: 
JOHN J. KIM, Interim Director

DATE: 6/5/12

DATE: 6/4/12

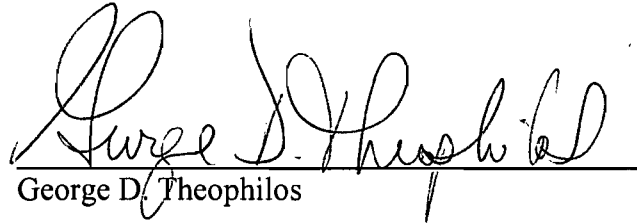
NORTHWEST ILLINI FEEDLOTS
CORPORATION

Title _____

DATE: _____

CERTIFICATE OF SERVICE

I, George D. Theophilos, an Assistant Attorney General, do certify that I caused the foregoing Motion For Relief From Hearing Requirement and Stipulation And Proposal For Settlement to be electronically mailed to the persons listed on the attached Service List on this the 8th day of June, 2012.


George D. Theophilos