

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

**PEOPLE OF THE STATE OF ILLINOIS,** )

**Complainant,** )

**vs.** )

**PCB No. 13-  
(Enforcement - Water)**

**CITY OF CARLINVILLE,  
an Illinois municipal corporation,** )

**Respondents.** )

**NOTICE OF ELECTRONIC FILING**

To: See Attached Service List

PLEASE TAKE NOTICE that on March 6, 2013, I electronically filed with the Clerk of the Pollution Control Board of the State of Illinois, c/o John T. Therriault, Assistant Clerk, James R. Thompson Center, 100 W. Randolph St., Ste. 11-500, Chicago, IL 60601, 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: \_\_\_\_\_

THOMAS DAVIS, Chief  
Assistant Attorney General  
Environmental Bureau

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: March 6, 2013

**CERTIFICATE OF SERVICE**

I hereby certify that I did on March 6, 2013, cause to be served by First Class Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box in Springfield, Illinois, a true and correct copy of the following instruments entitled NOTICE OF ELECTRONIC FILING, COMPLAINT, MOTION FOR RELIEF FROM HEARING REQUIREMENT and STIPULATION AND PROPOSAL FOR SETTLEMENT upon the persons listed on the Service List.



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Thomas Davis, Chief  
Assistant Attorney General

This filing is submitted on recycled paper.

**SERVICE LIST**

Mayor  
City of Carlinville  
550 North Broad  
Carlinville, IL 62626

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

<b>PEOPLE OF THE STATE OF ILLINOIS,</b>	)	
	)	
<b>Complainant,</b>	)	
	)	
<b>v.</b>	)	<b>PCB NO. 13-</b>
	)	<b>(Enforcement-Water)</b>
	)	
<b>CITY OF CARLINVILLE,</b>	)	
<b>an Illinois municipal corporation,</b>	)	
	)	
<b>Respondent.</b>	)	

**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) (2010), 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) (2010). In support of this motion, Complainant states as follows:

1. A complaint is being filed simultaneously with this motion with the Illinois Pollution Control Board ("Board") in this matter.
2. The parties have reached agreement on all outstanding issues in this matter.
3. This agreement is presented to the Board in a Stipulation and Proposal for Settlement, filed contemporaneously with this motion.
4. 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) (2010).

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) (2010).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS  
LISA MADIGAN  
ATTORNEY GENERAL

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

BY:   
THOMAS DAVIS, Chief  
Environmental Bureau  
Assistant Attorney General

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: March 6, 2013



3. The Illinois Pollution Control Board ("Board") is an agency of the State of Illinois created by the Illinois General Assembly in Section 5 of the Act, 415 ILCS 5/5 (2010), and charged with the duty of promulgating regulations under the Act, pursuant to Section 26 of the Act, 415 ILCS 5/26 (2010).

4. The City of Carlinville ("Respondent") is an Illinois municipal corporation authorized to do business in the State of Illinois.

5. The Respondent operates a sewage treatment plant ("STP"), located at 1345 South Mayo Street, Carlinville, Macoupin County, Illinois. The STP includes a primary outfall ("Discharge 001") and a treated combined sewer overflow ("CSO") outfall ("Discharge A01"). In addition, there is an untreated CSO outfall ("Discharge 002") located at the Broad Street CSO structure in Carlinville, Illinois.

6. The STP discharges treated municipal sewage to Briar Creek pursuant to National Pollutant Discharge Elimination System ("NPDES") Permit No. IL0022675.

7. The Respondent's NPDES permit provides that Discharge A01 be used for flows in excess of 3.75 million gallons per day ("mgd") and up to 18.75 mgd total flow. In addition the permit provides that Discharge A01 "shall not be utilized until the main treatment facility is receiving its maximum practical flow."

8. According to National Oceanic and Atmospheric Administration Data from the Springfield Airport, no rainfall occurred on March 1 through 6, 8, and 15 through 17. In addition, only trace precipitation occurred on March 7, 9, 10, and 14; and, light precipitation of 0.29, 0.40 and 0.29 inches occurred on March 11, 12, and 13, respectively.

9. On March 17, 2010, the Illinois EPA conducted an inspection to observe conditions at the Carlinville Broad Street CSO structure and the receiving stream, Briar Creek.

10. On March 17, 2010, the 24 by 24-inch sluice gate that controls flow to the 36-inch sewer conducting sewage to the treatment plant for full treatment and/or settling and disinfection

for treated CSO flows was closed down at least 12 inches. Flow through the sluice gate was further restricted by debris caught on the gate.

11. On March 17, 2010, an estimated 20 gallon per minute flow was discharging from the Discharge 002 to Briar Creek. There was little other flow in Briar Creek at that location. The flow in Briar Creek was gray and turbid and had an odor of sewage. Deeper areas of the creek, when disturbed, revealed gray fluffy solids, undigested corn, and sewage debris, all typical of raw sewage. Rocks in Briar Creek at this location were observed to have gray, stringy growths of Beggiatoa indicating prolonged discharge of sewage. Items of sewage debris from apparent past discharges were observed on the banks and vegetation bordering Briar Creek, including rags, toilet paper, and sanitary products.

12. On March 17, 2010, Illinois EPA collected a water sample from Discharge 002. The sample was collected at the north edge of the concrete apron below the weir and outfall. The sample was gray and turbid and had an odor of raw sewage.

13. On August 2, 2010, Illinois EPA observed conditions at the Discharge 002 location at Broad Street.

14. On August 2, 2010, the sluice gate for dry weather flow had been lowered approximately four to five inches and rag debris had been caught and built up on the bars of the Discharge 002 outfall. In addition, Briar Creek contained sludge deposits at various locations, including just below the Discharge 002 and locations approximately 100, 300, 900, and 1,400 feet downstream from the Discharge 002 location.

15. Section 12(a) of the Act, 415 ILCS 5/12(a) (2010), provides 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.

\* \* \*

16. A "contaminant" is defined under Section 3.165 of the Act, 415 ILCS

5/3.165 (2010), as follows:

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

17. A "person" is defined under Section 3.315 of the Act, 415 ILCS 5/3.315 (2010),

as follows:

"Person" is any individual, partnership, copartnership, 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, agency or assigns.

18. "Water Pollution" is defined under Section 3.545 of the Act, 415 ILCS 5/3.545

(2010), 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. "Waters" of the State are defined under Section 3.550 of the Act,

415 ILCS 5/3.550 (2010), as follows:

"Waters" means all accumulation of water, surface and underground, natural, and artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon this State.

20. Section 306.305(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code

306.305(a), provides as follows:

All combined sewer overflows and treatment plant bypasses shall be given sufficient treatment to prevent pollution, or the violation of applicable water quality standards unless an exception has been granted by the Board pursuant to Subpart D. Sufficient treatment shall consist of the following:

- a) All dry weather flows, and the first flush of storm flows as determined by the Agency, shall meet the applicable effluent standards

21. Special Condition 5 of NPDES Permit No. IL0022675, provides, as follows:

The effluent, alone or in combination with other sources, shall not cause a violation of any applicable water quality standard outlined in 35 Ill. Adm. Code 302.

22. Special Condition 13 of NPDES Permit No. IL0022675, provides, in part, as follows:

\* \* \*

3. Overflows during dry weather are prohibited. Dry weather overflows shall be reported to the IEPA pursuant to Standard Condition 12(e) of this Permit (24 hour notice).

\* \* \*

23. Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203, provides, in pertinent part, as follows:

Waters of the State shall be free from sludge or bottom deposits, floating debris, visible oil, odor, plant or algal growth, color or turbidity of other than natural origin.

24. The Respondent is a person as defined under Section 3.315 of the Act, 415 ILCS 5/3.315 (2010).

25. Briar Creek is a water of the State as defined under Section 3.550 of the Act, 415 ILCS 5/3.550 (2010).

26. Respondent's untreated effluent discharge from Discharge 002 is a contaminant as defined under Section 3.165 of the Act, 415 ILCS 5/3.165 (2010).

27. By allowing an untreated dry weather discharge which does not meet the applicable effluent standards to occur from Discharge 002, the Respondent violated Section 306.305(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 306.305(a).

28. By causing or threatening or allowing an untreated dry weather discharge into the environment so as to cause or tend to cause water pollution or so as to violate the Board's regulations or standards, the Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2010).

**PRAYER FOR RELIEF**

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

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010), imposing a civil penalty of not more than the statutory maximum; and,
- E. Granting such other relief as the Board may deem appropriate.

**COUNT II**

**NPDES PERMIT VIOLATION**

1-26. Complainant realleges and incorporates by reference herein paragraphs 1 through 26 of Count I as paragraphs 1 through 26 of this Count II.

27. The federal Clean Water Act regulates the discharge of pollutants from a point source into navigable waters and prohibits such point source discharges without a National Pollutant Discharge Elimination System ("NPDES") permit. The United States Environmental Protection Agency ("USEPA") administers the NPDES program in each State unless the USEPA has delegated authority to do so in that State. The USEPA has authorized the State of Illinois to issue NPDES permits through the Illinois EPA in compliance with federal regulations.

28. NPDES permit No. IL0022675 was issued to the City of Carlinville for the Carlinville STP on October 29, 2010.

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

No person shall:

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.

30. By failing to operate the STP in such a manner so as to avoid a dry weather discharge from Discharge 002 to Briar Creek until the main treatment facility was receiving its maximum practical flow, the Respondent violated terms and conditions of NPDES Permit No. IL0022675.

31. By discharging pollutants or contaminants which are subject to water quality standards into the waters of the State from a point source, in violation of permit terms and conditions, Respondent violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2010).

**PRAYER FOR RELIEF**

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

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010), imposing a civil penalty of not more than the statutory maximum; and,
- E. Granting such other relief as the Board may deem appropriate.

**COUNT III**

**OFFENSIVE DISCHARGES VIOLATION**

1-26. Complainant realleges and incorporates by reference herein paragraphs 1 through 26 of Count I as paragraphs 1 through 26 of this Count III.

27. Section 304.106 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.106, provides as follows:

In addition to the other requirements of this Part, no effluent shall contain settleable solids, floating debris, visible oil, grease, scum or sludge solids. Color, odor and turbidity must be reduced to below obvious levels.

28. By discharging untreated gray, turbid, and odorous effluent containing debris and solids, Respondent violated 304.106 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.106, and Section 12(a) of the Act, 415 ILCS 5/12(a) (2010).

**PRAYER FOR RELIEF**

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

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010), imposing a civil penalty of not more than the statutory maximum; and,
- E. Granting such other relief as the Board may deem appropriate.

**COUNT IV**

**SEWER OVERFLOW**

1-6. Complainant realleges and incorporates by reference herein paragraphs 1 through 5 and 15 of Count I as paragraphs 1 through 6 of this Count IV.

7. On October 10, 2011, a sewer backup occurred into a private residence ("residence") located at 215 Loomis Lane, Carlinville, Illinois. The residence was damaged as a result of the sewer backup which came into the living space of the residence.

8. The sewer lines connected to the residence are operated and maintained by the Respondent. The sewer lines are part of the sanitary system connected to Respondent's STP.

9. Following the sewer backup, on a date better known by the Respondent, the Respondent treated the sewer line near the residence by applying a foaming rootkiller to the sewer line to kill fine root hairs and by removing invading roots with a root cutter. In addition, the Respondent took a sewer jet to the manhole located near the residence and jetted out the sewer main.

10. Section 306.304 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 306.304, provides as follows:

Overflows from sanitary sewers are expressly prohibited.

11. By allowing a sanitary sewer overflow into a residence, Respondent violated 306.304 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 306.304.

12. By causing or threatening or allowing an overflow from a sanitary sewer so as to violate the Board's regulations or standards, the Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2010).

#### **PRAYER FOR RELIEF**

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

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

B. Finding that Respondent has violated the Act as alleged herein;

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

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010), imposing a civil penalty of not more than the statutory maximum; and,

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

**COUNT V**

**FAILURE TO MAINTAIN SYSTEM RELIABILITY**

1-11. Complainant realleges and incorporates by reference herein paragraphs 1 through 11 of Count IV as paragraphs 1 through 11 of this Count V.

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

- 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.

13. By failing to maintain the STP's associated sewer lines so as to minimize a violation of applicable standards, Respondent violated 306.102(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 306.102(a).

29. By causing or threatening or allowing an overflow from a sanitary sewer so as to violate the Board's regulations or standards, the Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2010).

**PRAYER FOR RELIEF**

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

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act;

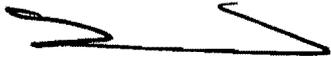
D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010), imposing a civil penalty of not more than the statutory maximum; and,

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

Respectfully submitted,

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: 

THOMAS DAVIS, Chief  
Environmental Bureau  
Assistant Attorney General

Of Counsel

RACHEL R. MEDINA

ARDC#6297171

500 South Second Street

Springfield, Illinois 62706

217/782-9031

Dated: 3/04/13

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

<b>PEOPLE OF THE STATE OF ILLINOIS,</b>	)	
	)	
<b>Complainant,</b>	)	
	)	
<b>v.</b>	)	<b>PCB NO.</b>
	)	<b>(Enforcement - Water)</b>
<b>CITY OF CARLINVILLE,</b>	)	
<b>an Illinois municipal corporation,</b>	)	
	)	
<b>Respondent.</b>	)	

**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 CARLINVILLE, an Illinois municipal corporation ("Respondent") ("Parties to the Stipulation"), have agreed to the making of this Stipulation and Proposal for Settlement ("Stipulation") and submit it to the Illinois Pollution Control Board ("Board") for approval. This stipulation of facts is made and agreed upon for purposes of settlement only and as a factual basis for the Board's approval of this Stipulation and issuance of relief. None of the facts stipulated herein shall be introduced into evidence in any other proceeding regarding the violations of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/1 *et seq.* (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. Contemporaneous with the filing 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 (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 municipal corporation that is authorized to transact business in the State of Illinois.

At all times relevant to the Complaint, Respondent owned and operated a sewage treatment plant ("STP"), located at 1345 South Mayo Street, Carlinville, Macoupin County, Illinois. The STP includes a primary outfall ("Discharge 001: STP Outfall") and a treated combined sewer overflow ("CSO") outfall ("Discharge A01: Treated CSO Outfall") which are located at the STP site. In addition, the STP includes an untreated CSO outfall ("Discharge 002: Combined Sewer Overflow") which is located at the Broad Street CSO structure in Carlinville, Illinois.

4. The STP discharges treated municipal sewage and CSO to Briar Creek pursuant to National Pollution Discharge Elimination System ("NPDES") Permit No. IL0022675.

**B. Allegations of Non-Compliance**

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

**Count I: Dry Weather Discharge Violation**

By allowing an untreated dry weather discharge which does not meet the applicable effluent standards to occur from the Discharge 002: Combined Sewer Overflow, the Respondent violated Section 306.305(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 306.305(a).

By causing, threatening or allowing an untreated dry weather discharge into the environment so as to cause or tend to cause water pollution or so as to violate the Board's regulations or standards, the Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2010).

**Count II: NPDES Permit Violation**

By failing to operate the STP in such a manner so as to avoid dry weather discharge from the Discharge 002: Combined Sewer Overflow to Briar Creek until the main treatment facility was receiving its maximum practical flow, the Respondent violated terms and conditions of NPDES Permit No. IL0022675.

By discharging pollutants or contaminants which are subject to water quality standards into the waters of the State from a point source, in violation of permit terms and conditions, Respondent violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2010).

**Count III: Offensive Discharges Violation**

By discharging untreated gray, turbid, and odorous effluent containing debris and solids, Respondent violated 304.106 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.106, and Section 12(a) of the Act, 415 ILCS 5/12(a) (2010).

**Count IV: Sewer Overflow**

By allowing a sanitary sewer overflow into a residence, Respondent violated 306.304 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 306.304.

By causing or threatening or allowing an overflow from a sanitary sewer so as to violate the Board's regulations or standards, the Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2010).

**Count V: Failure to Maintain System Reliability**

By failing to maintain the STP's associated sewer lines so as to minimize a violation of applicable standards, Respondent violated 306.102(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 306.102(a).

By causing or threatening or allowing an overflow from a sanitary sewer so as to violate the Board's regulations or standards, the Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2010).

**C. Admission of Violations**

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

**II. APPLICABILITY**

This Stipulation shall apply to and be binding upon the Parties to the Stipulation, and any officer, director, agent, or employee of the Respondent, as well as any successors or assigns of the Respondent. The Respondent shall not raise as a defense to any enforcement action taken pursuant to this Stipulation the failure of any of its officers, directors, agents, employees or successors or assigns to take such action as shall be required to comply with the provisions of this Stipulation. This Stipulation may be used against the Respondent in any subsequent

enforcement action or permit proceeding as proof of a past adjudication of violation of the Act and the Board Regulations for all violations alleged in the Complaint in this matter, for purposes of Sections 39 and 42 of the Act, 415 ILCS 5/39 and 42 (2010).

The Respondent shall notify each contractor to be retained to perform work required in this Stipulation of each of the requirements of this Stipulation relevant to the activities to be performed by that contractor, including all relevant work schedules and reporting deadlines, and shall provide a copy of this Stipulation to each contractor already retained no later than thirty (30) calendar days after the date of entry of this Stipulation. In addition, the Respondent shall provide copies of all schedules for implementation of the provisions of this Stipulation to the prime vendor(s) supplying the control technology systems and other equipment required by this Stipulation.

### **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. The untreated dry weather overflow from the Treated CSO Outfall which resulted in a discharge of various sorts of sewage debris to Briar Creek, and the sewer backup into a residence, threatened human health and the environment.
2. The parties agree that Respondent's operation is of economic benefit to the surrounding community. Any social benefit is derived primarily from those employed by Respondent.
3. Operation of the facility was suitable for the area in which it occurred.
4. Proper maintenance and control of the STP during the time periods alleged in the Complaint was both technically practicable and economically reasonable. The Respondent needs to complete a Long Term Control Plan in order to determine whether improvements to the STP are needed in order to meet water quality standards in the future.
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), 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.
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. The CSO overflow violations were observed during the Illinois EPA inspection on March 17, 2010. Briar Creek, the receiving stream, was gray, turbid, and exhibited an odor of sewage. In addition, deeper areas of the creek contained various types of sewage debris and rocks in the creek were observed to have gray, stringy growths of Beggiatoa indicating prolonged discharge of sewage. Items of sewage debris were observed on the banks and vegetation bordering Briar Creek, including rags, toilet paper, and sanitary products indicating past discharges. The sewer backup into a residence occurred on October 10, 2011.

2. 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.

3. Economic benefit is not an issue in this matter.

4. Complainant has determined based upon the specific facts of this matter that a penalty of Three Thousand Two Hundred Forty Dollars (\$3,240.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

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

6. The Respondent did not voluntarily disclose the violations in this matter.

7. The settlement of this matter does not include a supplemental environmental project.
8. There is no Compliance Commitment Agreement.

## **V. TERMS OF SETTLEMENT**

### **A. Penalty Payment**

1. The Respondent shall pay a civil penalty in the sum of Three Thousand Two Hundred Forty Dollars (\$3,240.00) 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**

All payments required by this Stipulation shall be made by certified check or money order payable to the Illinois EPA for deposit into the Environmental Protection Trust Fund ("EPTF"). Payments shall be sent by first class mail and delivered to:

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

The name, case number and the Respondent's federal tax identification number shall appear on the face of the certified check or money order. A copy of the certified check or money order and any transmittal letter shall be sent to:

Rachel R. Medina  
Environmental Bureau  
Illinois Attorney General's Office  
500 South Second Street  
Springfield, Illinois 62706

**D. Future Compliance**

1. The Respondent shall complete and submit to the Illinois EPA a first flush study in accordance with Part 375 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 375, et seq., by June 30, 2013. A copy of the first flush study shall simultaneously be provided to the Illinois Attorney General's Office.

2. The Respondent shall complete and submit to the Illinois EPA a Long Term Control Plan ("LTCP") within 30 days of completing the first flush study. The LTCP shall be prepared in accordance with Section 301 of the Clean Water Act, 33 U.S.C. §1311, the National CSO Control Policy, 59 Fed. Reg. 18688 (19 Apr 1994), and Special Condition 13 of NPDES Permit No. IL0022675. The LTCP shall address both treated (Discharge A01: Treated CSO Outfall) and untreated (Discharge 002: Combined Sewer Overflow) CSO discharges. A copy of the Long Term Control Plan shall simultaneously be provided to the Illinois Attorney General's Office.

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.

4. 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.

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

**E. Release from Liability**

In consideration of the Respondent's payment of the \$3,240.00 penalty, its commitment to future compliance as contained in Section V.D. above, completion of all activities required hereunder, 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 contemporaneous with this Stipulation. The Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against the Respondent with respect to all other matters, including but not limited to, the following:

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

Nothing in this Stipulation is intended as a waiver, discharge, release, or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in

law or in equity, which the State of Illinois may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315, or entity other than the Respondent.

**F. Correspondence, Reports and Other Documents**

Any and all correspondence, reports and any other documents required under this Stipulation, except for penalty payments, shall be submitted as follows:

As to the Complainant

Rachel R. Medina  
Assistant Attorney General  
Environmental Bureau  
500 South Second Street  
Springfield, Illinois 62702

Joey Logan-Wilkey  
Assistant Counsel  
Illinois EPA  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

John Wells  
Bureau of Water, Division of Water Pollution Control  
Illinois EPA  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

As to the Respondent

Mayor  
City of Carlinville  
550 North Broad  
Carlinville, IL 62626

**G. Enforcement and Modification of Stipulation**

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

2. The Parties to the Stipulation 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 V.G. 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 the Parties to the Stipulation.

**H. Execution of Stipulation**

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

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

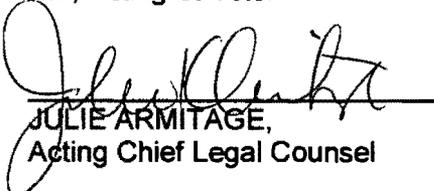
PEOPLE OF THE STATE OF ILLINOIS,

LISA MADIGAN  
Attorney General  
State of Illinois

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

FOR THE ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

JOHN KIM, Acting Director

BY:   
JULIE ARMITAGE,  
Acting Chief Legal Counsel

DATE: 2/27/13

BY:   
THOMAS DAVIS, Chief  
Environmental Bureau  
Assistant Attorney General

DATE: 2/28/13

CITY OF CARLINVILLE

BY:   
ROBERT SCHWAB,  
Mayor

DATE: 1/28/13