

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS,	)	
by KWAME RAOUL, Attorney General	)	
of the State of Illinois,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB No. 22 -
	)	(Enforcement – Water)
CITY OF HOOPESTON, an Illinois municipal	)	
corporation,	)	
	)	
Respondent.	)	

**NOTICE OF FILING**

TO: See attached service list (VIA ELECTRONIC FILING)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the following Notice of Filing, Complaint, and Certificate of Service, a copy of which is attached and hereby served upon you. **You may be required to answer the charges of the Complaint at a hearing before the Board, at a date set by the Board.**

Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the clerk's office, or an attorney.

NOTIFICATION - YOU ARE HEREBY NOTIFIED that financing may be available through the Illinois Environmental Facilities Financing Act [20 ILCS 3515/1, et seq.] to correct the alleged violations.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,  
KWAME RAOUL, Attorney General of the State of  
Illinois

By: /s/ Kevin D. Bonin  
Kevin D. Bonin, #6294877  
Assistant Attorney General  
500 S. Second Street  
Springfield, IL 62701  
(217) 782-5055  
[kevin.bonin@ilag.gov](mailto:kevin.bonin@ilag.gov)

Date: January 13, 2022

**Service List**

**For the Respondent**

City of Hoopston  
c/o Jeff Wise, Acting Mayor  
301 West Main Street  
Hoopston, Illinois 60942

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Respondent.	)	

**COMPLAINT**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, complains of the Respondent, CITY OF HOOPESTON, an Illinois municipal corporation, as follows:

**COUNT I**  
**FAILURE TO TIMELY APPLY FOR NATIONAL POLLUTANT DISCHARGE**  
**ELIMINATION SYSTEM (“NPDES”) PERMIT RENEWAL**

1. This Complaint is brought on behalf of the People of the State of Illinois, by Kwame Raoul, Attorney General of the State of Illinois, on his own motion and at the request of the Illinois Environmental Protection Agency (“Illinois EPA”), pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2020).

2. Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2020), and is charged, *inter alia*, with the duty of enforcing the Act. Illinois EPA is further charged with the duty to abate violations of the National Pollutant Discharge Elimination System (“NPDES”) Permit Program under the Federal Clean Water Act (“CWA”), 33 U.S.C. §1342(b)(7).

3. The Illinois Pollution Control Board (“Board”) is an independent board created by the Illinois General Assembly in Section 5 of the Act, 415 ILCS 5/5 (2020), and charged, *inter alia*, with the duty of promulgating standards and regulations under the Act.

4. Respondent, CITY OF HOOPESTON, is an Illinois municipal corporation located in Vermilion County with approximately 5,351 residents.

5. At all times relevant to this Complaint, Respondent owned and operated a publicly-owned treatment works located on South Sixth Avenue, Hoopeston, Vermilion County, Illinois (“Hoopeston POTW”).

6. Hoopeston POTW treats wastewater generated from both domestic and industrial sources and has a design average flow of 1.32 million gallons per day.

7. NPDES Permit Number IL0024830 (“the Permit”) authorizes Respondent to discharge treated effluent from Hoopeston POTW’s authorized outfalls into Hoopeston Branch in accordance with the terms and conditions of the Permit.

8. On September 19, 2014, the Permit was reissued to Respondent with an expiration date of September 30, 2019.

9. On August 1, 2019, Respondent submitted its renewal application for the Permit.

10. Section 12(f) of the Act, 415 ILCS 5/12(f) (2020), provides, in pertinent part, as follows:

No person shall:

\* \* \*

- (f) Cause, threaten or allow the discharge of any contaminant into the waters of the State, as defined herein . . . 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.

\* \* \*

11. Section 3.315 of the Act, 415 ILCS 5/3.315 (2020), 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.
12. Respondent, a municipal corporation, is a “person,” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2020).
13. Section 3.165 of the Act, 415 ILCS 5/3.165 (2020), provides as follows:  
  
“Contaminant” is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.
14. Treated effluent from the Hoopston POTW is a “contaminant,” as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2020).
15. Section 3.550 of the Act, 415 ILCS 5/3.550 (2020), provides as follows:  
  
“Waters” means all accumulations of water, surface and underground, natural, and artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon this State.
16. Hoopston Branch is a “water” of the State, as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).
17. Section 3.105 of the Act, 415 ILCS 5/3.105 (2020), provides as follows:  
  
“Agency” is the Environmental Protection Agency established by this Act.
18. Section 309.102(a) of the Board’s regulations, 35 Ill. Adm. Code 309.102(a), provides as follows:
  - a) Except as in compliance with the provisions of the Act, Board regulations, and the CWA, and the provisions and conditions of

the NPDES permit issued to the discharger, the discharge of any contaminant or pollutant by any person into the waters of the State from a point source or into a well shall be unlawful.

19. Section 301.240 of the Board's regulations, 35 Ill. Adm. Code 301.240, provides as follows:

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

20. Section 502(14) of the CWA, 33 U.S.C. § 1362(14), provides as follows:

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

21. Hoopston POTW's authorized outfalls are "point sources," as that term is defined in Section 502(14) of the CWA, 33 U.S.C. § 1362(14).

22. Section 309.104(a) of the Board's regulations, 35 Ill. Adm. Code 309.104(a), provides, in pertinent part, as follows:

a) Any permittee who wishes to continue to discharge after the expiration date of the NPDES Permit must timely apply for reissuance of the permit.

1) A permittee has submitted a timely application for a new permit when:

A) The permittee submits:

i) an application 180 days prior to the expiration date of the existing permit; or

ii) a request for a waiver in writing to the Agency, the Agency grants a written waiver to submit the application less than

180 days prior to the expiration date of the existing permit, and the applicant submits an application within the timeframe listed in the waiver request. . . .

\* \* \*

23. Respondent submitted its renewal application for the Permit sixty-one days prior to the Permit's expiration date.

24. Respondent failed to obtain a written waiver from Illinois EPA to submit a permit renewal application less than 180 days prior to the Permit's expiration date.

25. By failing to submit a permit renewal application 180 days prior to the expiration date of the Permit or to obtain a written waiver of the submission deadline from Illinois EPA, Respondent violated Section 309.104(a) of the Board's regulations, 35 Ill. Adm. Code 309.104(a).

26. At times better known to Respondent, Respondent discharged contaminants from a point source into waters of the State in violation of Section 309.104(a) of the Board's regulations, 35 Ill. Adm. Code 309.104(a), and thereby violated Section 309.102(a) of the Board's regulations, 35 Ill. Adm. Code 309.102(a).

27. At times better known to Respondent, Respondent caused, threatened, or allowed the discharge of a contaminant into waters of the State in violation of Sections 309.102(a) and 309.104(a) of the Board's NPDES regulations, 35 Ill. Adm. Code 309.102(a) and 309.104(a), and thereby violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2020).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of the Complainant and against the Respondent, CITY OF HOOPESTON, on Count I:

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

B. Finding that the Respondent violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2020), and Sections 309.102(a) and 309.104(a) of the Board's regulations, 35 Ill. Adm. Code 309.102(a) and 309.104(a);

C. Ordering the Respondent to cease and desist from any further violations of Section 12(f) of the Act, 415 ILCS 5/12(f) (2020), and Sections 309.102(a) and 309.104(a) of the Board's regulations, 35 Ill. Adm. Code 309.102(a) and 309.104(a);

D. Assessing against the Respondent a civil penalty of \$10,000.00 for each day of violation of Section 12(f) of the Act, 415 ILCS 5/12(f) (2020), and Sections 309.102(a) and 309.104(a) of the Board's regulations, 35 Ill. Adm. Code 309.102(a) and 309.104(a), pursuant to Section 42(b)(1) of the Act, 415 ILCS 5/42(b)(1) (2020);

E. Awarding to the Complainant its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2020); and

F. Ordering such other and further relief as the Board deems appropriate and just.

**COUNT II**  
**FAILURE TO SUBMIT REQUIRED REPORTS**

1-21. Complainant realleges and incorporates by reference herein paragraphs 1 through 21 of Count I as paragraphs 1 through 21 of this Count II.

22. Section 305.102(b) of the Board's regulations, 35 Ill. Adm. Code 305.102(b), provides as follows:

- b) Every holder of an NPDES (National Pollutant Discharge Elimination System) permit is required to comply with the



monitoring, sampling, recording and reporting requirements set forth in the permit and this Chapter.

23. Special Condition 14 of the Permit provides, in pertinent part, as follows:

The Permittee shall conduct biomonitoring of the effluent from Discharge Number(s) B01.

Biomonitoring

1. Acute Toxicity - Standard definitive acute toxicity tests shall be run on at least two trophic levels of aquatic species (fish, invertebrate) representative of the aquatic community of the receiving stream. . . .

\* \* \*

2. Testing Frequency - The above tests shall be conducted using 24-hour composite samples unless otherwise authorized by the IEPA. Samples must be collected in the 18th, 15th, 12th, and 9th month prior to the expiration date of this Permit.

3. Reporting - Results shall be reported . . . and shall be submitted to IEPA, Bureau of Water, Compliance Assurance Section within one week of receipt from the laboratory. Reports are due to the IEPA no later than the 16th, 13th, 10th, and 7th month prior to the expiration date of this Permit.

\* \* \*

24. Special Condition 15 of the Permit provides, in pertinent part, as follows:

For the duration of this Permit, the Permittee shall determine the quantity of sludge produced by the treatment facility in dry tons or gallons with average percent total solids analysis. . . . The Permittee shall submit to the IEPA, at a minimum, a semi-annual summary report of the quantities of sludge generated and disposed of. . . . Said reports shall be submitted to the IEPA by January 31 and July 31 of each year reporting the preceding January thru June and July thru December interval of sludge disposal operations.

25. On or before May 31, 2018, August 31, 2018, November 30, 2018, and February 28, 2019, Respondent failed to conduct acute toxicity tests of effluent from Outfall B01 and to

submit results of such tests to Illinois EPA in accordance with the schedule required by Special Condition 14 of the Permit.

26. By failing to conduct acute toxicity tests or submit results of acute toxicity tests to Illinois EPA in accordance with the terms and conditions of the Permit, Respondent violated Special Condition 14 of the Permit.

27. On or before January 31, 2018, Respondent failed to submit to Illinois EPA semi-annual reports of sludge generated and disposed of in accordance with the schedule required by Special Condition 15 of the Permit.

28. By failing to submit semi-annual sludge reports to Illinois EPA in accordance with the terms and conditions of the Permit, Respondent violated Special Condition 15 of the Permit.

29. By failing to submit required reports in violation of Special Conditions 14 and 15 of the Permit, Respondent failed to comply with monitoring, sampling, recording, and reporting requirements of the Permit, and thereby violated Section 305.102(b) of the Board's regulations, 35 Ill. Adm. Code 305.102(b).

30. At times better known to Respondent, Respondent discharged contaminants from a point source into waters of the State in violation Special Conditions 14 and 15 of the Permit, and thereby violated Section 309.102(a) of the Board's regulations, 35 Ill. Adm. Code 309.102(a).

31. At all times relevant to this Complaint, Respondent caused, threatened, or allowed the discharge of a contaminant into waters of the State in violation of Sections 305.102(b) and 309.102(a) of the Board's NPDES regulations, 35 Ill. Adm. Code 305.102(b) and 309.102(a), and Special Conditions 14 and 15 of the Permit, and thereby violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2020).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of the Complainant and against the Respondent, CITY OF HOOPESTON, on Count II:

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

B. Finding that the Respondent violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2020), Sections 305.102(b) and 309.102(a) of the Board's regulations, 35 Ill. Adm. Code 305.102(b) and 309.102(a), and Special Conditions 14 and 15 of the Permit;

C. Ordering the Respondent to cease and desist from any further violations of Section 12(f) of the Act, 415 ILCS 5/12(f) (2020), Sections 305.102(b) and 309.102(a) of the Board's regulations, 35 Ill. Adm. Code 305.102(b) and 309.102(a), and Special Conditions 14 and 15 of the Permit;

D. Assessing against the Respondent a civil penalty of \$10,000.00 for each day of violation of Section 12(f) of the Act, 415 ILCS 5/12(f) (2020), Sections 305.102(b) and 309.102(a) of the Board's regulations, 35 Ill. Adm. Code 305.102(b) and 309.102(a), and Special Conditions 14 and 15 of the Permit, pursuant to Section 42(b)(1) of the Act, 415 ILCS 5/42(b)(1) (2020);

E. Awarding to the Complainant its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2020); and

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F. Ordering such other and further relief as the Board deems appropriate and just.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,  
*ex rel.* KWAME RAOUL, Attorney General  
of the State of Illinois

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

BY: /s/ Andrew B. Armstrong  
ANDREW B. ARMSTRONG, Chief, #6282447  
Environmental Bureau  
Assistant Attorney General

Kevin D. Bonin, #6294877  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
500 South 2<sup>nd</sup> Street  
Springfield, Illinois 62701  
Ph: (217) 782-5055  
Fax: (217) 524-7740  
kevin.bonin@ilag.gov

**CERTIFICATE OF SERVICE**

I hereby certify that I did on January 13, 2022, send by Certified 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 document entitled NOTICE OF FILING and COMPLAINT to:

City of Hoopeston  
c/o Jeff Wise, Acting Mayor  
301 West Main Street  
Hoopeston, Illinois 60942

/s/ Kevin D. Bonin  
Kevin D. Bonin  
Assistant Attorney General

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this Certificate of Service are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

/s/ Kevin D. Bonin  
Kevin D. Bonin  
Assistant Attorney General