

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. 23 -
)	(Enforcement - Water)
VILLAGE OF BROADWELL,)	
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 Complaint, Stipulation and Proposal for Settlement, Motion for Relief from Hearing Requirement 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.

PEOPLE OF THE STATE OF ILLINOIS
KWAME RAOUL, ATTORNEY GENERAL

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

BY: s/Bridget I. Flynn
Bridget I. Flynn
Environmental Bureau
Assistant Attorney General
500 South Second Street
Springfield, Illinois 62701
217/782-9033
Bridget.Flynn@ilag.gov
ARDC No. 6332314

Dated: December 19, 2022

Service List

For the Respondent

Michael T. Fleshman
Woods and Bates, PC
306 Clinton Street
Lincoln, IL 62656
(via certified mail)

4. Respondent, VILLAGE OF BROADWELL, (“Respondent”) is an Illinois municipal corporation, located in Logan County, duly organized and existing under the laws of the State of Illinois, with a population of approximately 145 residents.

5. Respondent owns and operates a public water supply facility (“Facility”) located between Prairie Street and Highway County 12 in Broadwell, Illinois that is used to treat water before the water is distributed to the Village’s residents.

6. On June 16, 2017, Illinois EPA reissued National Pollutant Discharge Elimination System General Permit No. ILG6640014 (“NPDES General Permit”) to Respondent covering discharges of effluent from the Facility.

7. Effluent treated at the Facility is discharged into the Lake Fork of Salt Creek through Outfall 001.

8. At all times relevant to this Complaint, the NPDES General Permit required Respondent to monitor discharges from the Facility for specified parameters and to submit monthly Discharge Monitoring Reports detailing the results to Illinois EPA.

9. Section 12(f) of the Act, 415 ILCS 5/12(f) (2020), provides as follows:

No person shall:

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

10. Section 3.315 of the Act, 415 ILCS 5/3.315 (2020), provides the following definition:

“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, agency or assigns.

11. Respondent, a political subdivision, is a “person” as that term is defined by Section 3.315 of the Act, 415 ILCS 5/3.315 (2020).

12. Section 3.165 of the Act, 415 ILCS 5/3.165 (2020), provides the following definition:

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

13. Wastewater effluent discharged by Respondent’s Facility to the Lake Fork of Salt Creek is a “contaminant” as that term is defined by Section 3.165 of the Act, 415 ILCS 5/3.165 (2020).

14. Section 3.550 of the Act, 415 ILCS 5/3.550 (2020), provides the following definition:

“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.

15. The Lake Fork of Salt Creek is “waters” as that term is defined by Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

16. Section 301.240 of the Board’s Water Pollution 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.)

17. Section 502(14) of the CWA, 33 U.S.C. § 1362(14), provides the following definition:

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 storm water discharges and return flows from irrigated agriculture.

18. Outfall 001, where Respondent's Facility discharges wastewater effluent into the Lake Fork of Salt Creek, is a "point source" as that term is defined by Section 502(14) of the CWA, 33 U.S.C § 1362(14).

19. Section 305.102(b) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 305.102(b), provides as follows:

(b) Every holder of a NPDES permit is required to comply with the monitoring, sampling, recording and reporting requirements set forth in the permit and this Chapter.

20. Section 309.102(a) of the Board's Water Pollution 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.

21. Special Condition 5 of the NPDES General Permit provides, in pertinent part, as follows:

The Permittee shall record monitoring results on Discharge Monitoring Report (DMR) electronic Forms using one such form each outfall each month.

The completed Discharge Monitoring Report forms shall be submitted to IEPA no later than the 25th day of the following month, unless otherwise specified by the permitting authority.

22. Beginning no later than March 2018, Respondent has failed to timely submit to Illinois EPA all Discharge Monitoring Reports required by its NPDES General Permit.

23. The following table (“Table 1”) lists the Discharge Monitoring Reports that Respondent has failed to timely submit to Illinois EPA:

Outfall/Monitoring Point	Monitoring Period End Date
ILG640014-001	03/31/2019
ILG640014-001	08/31/2019
ILG640014-001	09/30/2019
ILG640014-001	10/31/2019
ILG640014-001	11/30/2019
ILG640014-001	12/31/2019
ILG640014-001	01/31/2020
ILG640014-001	02/29/2020
ILG640014-001	02/29/2020
ILG640014-001	03/31/2020
ILG640014-001	04/30/2020
ILG640014-001	05/31/2020
ILG640014-001	06/30/2020
ILG640014-001	07/31/2020
ILG640014-001	08/31/2020
ILG640014-001	09/30/2020
ILG640014-001	10/31/2020
ILG640014-001	11/30/2020
ILG640014-001	12/31/2020

ILG640014-001	03/31/2021
ILG640014-001	04/30/2021
ILG640014-001	05/31/2021
ILG640014-001	06/30/2021
ILG640014-001	07/31/2021

24. In November 2020, Respondent submitted the missing Discharge Monitoring Reports from March 2019 through November 2020; in February 2021, Respondent submitted the late Discharge Monitoring Report from December 2020; and in August 2021, Respondent submitted the late Discharge Monitoring Reports from March 2021 through July 2021.

25. By discharging effluent into Lake Fork of Salt Creek from its Facility without timely submitting Discharge Monitoring Reports, Respondent has violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2020); Special Condition 5 of the NPDES General Permit; and Sections 305.102(b) and 309.102(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 305.102(b) and 309.102(a).

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, VILLAGE OF BROADWELL, on Count I:

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

B. Finding that Respondent violated the Act and Board regulations as alleged herein;

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

D. Assessing against Respondent a civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation of Section 12(f) of the Act, 415 ILCS 5/12(f) 2020, and Special Permit Condition 5 of the NPDES General Permit, pursuant to Section 42(b)(1) of the Act, 415 ILCS 5/42(b)(1) (2020);

E. Ordering Respondent to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2020), including any attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

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

COUNT II
WATER POLLUTION

1-25. Plaintiff re-alleges and incorporates herein by reference paragraphs 1 through 25 of Count I as paragraphs 1 through 25 of this Count II.

26. Section 12(a) of the Act, 415 ILCS 5/12(a) (2020), 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.

27. By causing and allowing the discharge of contaminants in violation of the Board's regulations, Respondent thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

PRAYER OF 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, VILLAGE OF BROADWELL, on Count II:

- A. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;
- B. Finding that Respondent violated the Act and Board regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and Board regulations;
- D. Assessing against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Section 12(a) of the Act, 415 ILCS 12(a) (2020), and an additional Ten Thousand Dollars (\$10,000.00) for each day each violation continued, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2020);
- E. Ordering Respondent to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2020), including any attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and
- F. Granting such other relief as the Board may deem appropriate.

Respectfully submitted,

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

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

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

Of Counsel

BRIDGET I. FLYNN

Assistant Attorney General

Environmental Bureau

Illinois Attorney General's Office

500 South Second Street

Springfield, Illinois 62701

(217) 782-9033

Bridget.flynn@ilag.gov

ARDC #6332314

motion and upon the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2020), 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 (2020).

3. At all times relevant to the Complaint, Respondent was an Illinois municipal corporation, located in Logan County, duly organized and existing under the laws of the State of Illinois, with a population of approximately 145 residents.

4. At all times relevant to the Complaint, Respondent owned and operated a public water supply facility (“Facility”) located between Prairie Street and Highway County 12 in Broadwell, Illinois that treated water before the water was distributed to the Village’s residents.

B. Allegations of Non-Compliance

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

Count I: Failure to Comply with NPDES Permit Reporting Requirements
Section 12(f) of the Act, 415 ILCS 5/12(f) (2020), and Sections 305.102(b) and 309.102(a) of the Board’s Regulations, 35 Ill. Adm. Code 305.102(b) and 309.102(a).

Count II: Water Pollution
Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

C. Admission of Violations

The Respondent admits to the violations alleged in the Complaint filed in this matter and referenced above.

D. Compliance Activities to Date

In August 2021, Respondent submitted all missing Discharge Monitoring Reports to the Illinois EPA.

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 (2020).

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

Section 33(c) of the Act, 415 ILCS 5/33(c) (2020), 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 Respondent's alleged violations.
2. There is social and economic benefit from the Respondent's Facility so long as it is operated in compliance with the Act and Board regulations.
3. Operation of the Respondent's Facility is suitable for the area in which it is located so long as it is operated in compliance with the Act and Board regulations.
4. Timely submitting Discharge Monitoring Reports for the Facility was both technically practicable and economically reasonable.
5. Respondent has subsequently complied with the Act and the Board regulations with respect to the Site.

IV. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h) (2020), 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. The violations persisted between March 2019 and August 2021.
2. Respondent was not diligent in attempting to come back into compliance with the Act, Board regulations and applicable federal regulations, even after the Illinois EPA notified Respondent of its non-compliance.
3. The civil penalty takes into account any economic benefit realized by the Respondent as a result of avoided or delayed compliance.
4. Complainant has determined, based upon the specific facts of this matter, that civil penalties of One Thousand and Five Hundred Dollars (\$1,500.00) 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. Self-disclosure is not at issue in this matter.
7. The settlement of this matter does not include a supplemental environmental project.

8. A Compliance Commitment Agreement was not at issue in this matter.

V. TERMS OF SETTLEMENT

A. Penalty Payment

1. Respondent shall pay a civil penalty in the sum of One Thousand and Five Hundred Dollars (\$1,500.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

2. Payment of the civil penalty has been approved by the Defendant's City Council ("Approval") prior to the tendering of payment. A copy of the Approval is attached hereto and incorporated by reference into this Stipulation as Exhibit A.

B. Interest and Default

1. If 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 #2
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62702

2. The case name and case 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:

Bridget Flynn
Assistant Attorney General
Environmental Bureau
Illinois Attorney General’s Office
500 South Second Street
Springfield, Illinois 62701

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

3. Respondent shall ensure that all future Discharge Monitoring Reports are timely submitted each month in compliance with the terms and conditions of the Facility’s NPDES Permit.

E. Release from Liability

In consideration of the Respondent’s payment of the civil penalties required by Section V.A, above, 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 concurrently 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 (2020), or entity other than the Respondent.

F. Enforcement of Stipulation

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.

G. Notice and Public Comment

Pursuant to 35 Ill. Adm. Code 103.300(b)(2), the Board shall publish notice of this Stipulation for at least 30 days prior to the Board accepting the Stipulation. If public comments

are submitted to the Board regarding this Stipulation, the Complainant reserves the right to withdraw its consent if the comments regarding the Stipulation disclose facts or considerations which indicate that the Stipulation is inappropriate, improper, or inadequate. Respondent consents to the entry of this Stipulation without further notice and agrees not to withdraw from or oppose acceptance of this Stipulation or to challenge any provision of the Stipulation, unless the Complainant has notified Respondent in writing that it withdraws or withholds its consent for the Stipulation. In the event the Complainant notifies the Respondent that it withdraws or withholds its consent for the Stipulation, then the terms of the agreement may not be used as evidence in any litigation between those entities.

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

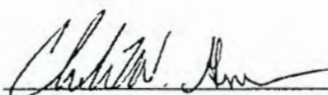
ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

KWAME RAOUL
Attorney General
State of Illinois

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

JOHN J. KIM, Director
Illinois Environmental Protection Agency

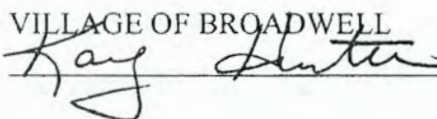
BY: 
ANDREW B. ARMSTRONG, Chief
Assistant Attorney General
Environmental Bureau

BY: 
CHARLES W. GUNNARSON
Chief Legal Counsel

DATE: 12/14/2022

DATE: 12/13/22

RESPONDENT

VILLAGE OF BROADWELL


DATE: 11/14/22

RESOLUTION NO. 2022-_____

RESOLUTION OF THE BOARD OF TRUSTEES OF
THE VILLAGE OF BROADWELL, LOGAN COUNTY, ILLINOIS

THIS RESOLUTION is made and adopted by the BOARD OF
TRUSTEES OF THE VILLAGE OF BROADWELL, LOGAN COUNTY, ILLINOIS:
WITNESSETH:

WHEREAS, the VILLAGE OF BROADWELL is a municipal
corporation located in Logan County, Illinois; and,

WHEREAS, the VILLAGE OF BROADWELL operates a public water
supply facility that treats water and distributes water to
VILLAGE residents; and,

WHEREAS, between March 2019 and August 2021 the VILLAGE
failed to comply with certain reporting requirements within the
Illinois Environmental Protection Act, 415 ILCS 5/1, et seq.
(the "Act"); and,

WHEREAS, the Illinois Attorney General is contemplating
filing a Complaint against the VILLAGE for noncompliance with
the Act; and,

WHEREAS, in an effort to fully resolve any issue between
the State of Illinois and the VILLAGE, the Attorney General's
Office prepared a Stipulation and Proposal for Settlement, a
copy of which is attached hereto as **Exhibit A** and by this
reference made a part hereof; and,

WHEREAS, the BOARD OF TRUSTEES of the VILLAGE believe it to be in the best interests of the residents of the VILLAGE to fully resolve the matters relating to said Stipulation and Proposal for Settlement.

NOW, THEREFORE, IT IS HEREBY RESOLVED by the BOARD OF TRUSTEES of the VILLAGE OF BROADWELL, LOGAN COUNTY, ILLINOIS, as follows:

1. That the Stipulation and Proposal for Settlement attached hereto as **Exhibit A**, which is by this reference made a part hereof, is hereby approved subject to minor modifications at the sole discretion of the President of the VILLAGE OF BROADWELL;

2. That the President is hereby authorized to negotiate minor changes to said Stipulation and Proposal for Settlement;

3. That the President is authorized to execute any and all documents necessary to fulfill the terms of the attached Stipulation and Proposal for Settlement;

4. That should any clause, sentence, or paragraph of the above-noted Resolution be declared invalid by any court of competent jurisdiction, such invalidity shall not affect any other portion of said Resolution;

5. That the above-noted Resolution shall be in full force and effect forthwith upon its adoption.

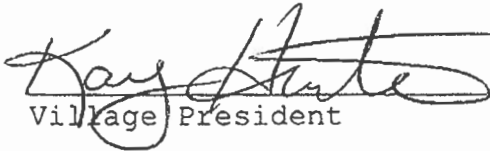
The vote on the adoption was as follows:


AYES: 5

NAYS: 0

Absent: 0

Approved this 13 day of June, 2022.


Village President

ATTEST:

Village Clerk

motion and upon the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2020), 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 (2020).

3. At all times relevant to the Complaint, Respondent was an Illinois municipal corporation, located in Logan County, duly organized and existing under the laws of the State of Illinois, with a population of approximately 145 residents.

4. At all times relevant to the Complaint, Respondent owned and operated a public water supply facility ("Facility") located between Prairie Street and Highway County 12 in Broadwell, Illinois that treated water before the water was distributed to the Village's residents.

B. Allegations of Non-Compliance

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

Count I: Failure to Comply with NPDES Permit Reporting Requirements
Section 12(f) of the Act, 415 ILCS 5/12(f) (2020), and Sections 305.102(b) and 309.102(a) of the Board's Regulations, 35 Ill. Adm. Code 305.102(b) and 309.102(a).

Count II: Water Pollution
Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

C. Admission of Violations

The Respondent admits to the violations alleged in the Complaint filed in this matter and referenced above.

D. Compliance Activities to Date

In August 2021, Respondent submitted all missing Discharge Monitoring Reports to the Illinois EPA.

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 (2020).

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

Section 33(c) of the Act, 415 ILCS 5/33(c) (2020), 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 Respondent's alleged violations.
2. There is social and economic benefit from the Respondent's Facility so long as it is operated in compliance with the Act and Board regulations.
3. Operation of the Respondent's Facility is suitable for the area in which it is located so long as it is operated in compliance with the Act and Board regulations.
4. Timely submitting Discharge Monitoring Reports for the Facility was both technically practicable and economically reasonable.
5. Respondent has subsequently complied with the Act and the Board regulations with respect to the Site.

IV. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h) (2020), 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. The violations persisted between March 2019 and August 2021.
2. Respondent was not diligent in attempting to come back into compliance with the Act, Board regulations and applicable federal regulations, even after the Illinois EPA notified Respondent of its non-compliance.
3. The civil penalty takes into account any economic benefit realized by the Respondent as a result of avoided or delayed compliance.
4. Complainant has determined, based upon the specific facts of this matter, that civil penalties of One Thousand and Five Hundred Dollars (\$1,500.00) 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. Self-disclosure is not at issue in this matter.
7. The settlement of this matter does not include a supplemental environmental project.

8. A Compliance Commitment Agreement was not at issue in this matter.

V. TERMS OF SETTLEMENT

A. Penalty Payment

1. Respondent shall pay a civil penalty in the sum of One Thousand and Five Hundred Dollars (\$1,500.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

2. Payment of the civil penalty has been approved by the Defendant's City Council ("Approval") prior to the tendering of payment. A copy of the Approval is attached hereto and incorporated by reference into this Stipulation as Exhibit A.

B. Interest and Default

1. If 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 #2
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62702

2. The case name and case 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:

Brian Navarrete
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
500 South Second Street
Springfield, Illinois 62701

D. Future Compliance

1. Respondent shall ensure that all future Discharge Monitoring Reports are timely submitted each month in compliance with the terms and conditions of the Facility's NPDES Permit.

2. 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.

3. 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 civil penalties required by Section V.A, above, 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 concurrently 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 (2020), or entity other than the Respondent.

F. Enforcement of Stipulation

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.

G. Notice and Public Comment

After this Stipulation is signed by all the Parties to the Stipulation but prior to entry by the Board, it shall be posted on the Illinois EPA's website for a period of not less than thirty (30) days

for public notice and comment. Petitioner reserves the right to withdraw or withhold its consent prior to entry by the Board if the comments regarding the Stipulation disclose facts or considerations which indicate that the Stipulation is inappropriate, improper, or inadequate. Respondent consents to the entry of this Stipulation and agrees not to withdraw from or oppose the entry of this Stipulation or to challenge any provision of the Stipulation unless Petitioner has notified Respondent in writing that it withdraws or withholds its consent for the Stipulation. In the event Petitioner notifies Respondent that it withdraws or withholds its consent for the Stipulation, then the terms of the agreement may not be used as evidence in any litigation between those entities.

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

KWAME RAOUL,
Attorney General
State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

JOHN J. KIM, Director
Illinois Environmental Protection Agency

Asbestos Litigation Division

BY: _____
ANDREW B. ARMSTRONG, Chief
Assistant Attorney General
Environmental Bureau

BY: _____
CHARLES W. GUNNARSON
Chief Legal Counsel

DATE: _____

DATE: _____

RESPONDENT

VILLAGE OF BROADWELL

DATE: _____

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.
)	(Enforcement – Water)
VILLAGE OF BROADWELL,)	
an Illinois municipal corporation,)	
)	
Respondent.)	

MOTION FOR RELIEF FROM HEARING

NOW COMES Complainant, People of the State of Illinois, by Kwame Raoul, Attorney General of the State of Illinois, and requests relief from the requirement of a hearing in this matter. In support thereof, Complainant states as follows:

1. Filed contemporaneously with this Motion is a Stipulation and Proposal for Settlement executed between Complainant and the Respondent, Village of Broadwell.
2. The parties have reached agreement on all outstanding issues in this matter.
3. Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2020), provides as follows:

(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).

4. No hearing is scheduled in this matter.

5. Complainant hereby requests relief from the requirement of a hearing pursuant to Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2020).

Respectfully submitted,

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

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

BY: /s/ Bridget I. Flynn
BRIDGET I. FLYNN
Assistant Attorney General
500 South Second Street
Springfield, Illinois 62706
(217) 782-9033
Bridget.flynn@ilag.gov

Dated: December 19, 2022

CERTIFICATE OF SERVICE

I, Bridget Flynn, an Assistant Attorney General, certify that on the 19th day of December, 2022, I caused to be served the Notice of Filing, Complaint, Stipulation and Proposal for Settlement, and Motion for Relief from Hearing Requirements by certified mail to:

Michael T. Fleshman
Woods and Bates, PC
306 Clinton Street
Lincoln, IL 62656

BY: s/Bridget I. Flynn
Bridget I. Flynn
Assistant Attorney General
Environmental Bureau
Office of the Illinois Attorney General
500 South Second Street
Springfield, Illinois 62701
217-782-9033
Bridget.Flynn@ilag.gov
ARDC No. 6332314