

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
vs.)	PCB No.
)	(Enforcement - Water)
VILLAGE OF CAVE IN ROCK, an Illinois)	
municipal corporation, and)	
MAIER'S TIDY BOWL, INC., an Illinois)	
corporation,)	
)	
Respondents.)	

NOTICE OF ELECTRONIC FILING

To: VILLAGE OF CAVE IN ROCK, an Illinois municipal corporation, c/o Frederick Turner, Jr., Attorney at Law, 207 E. Main Street, P.O. Box 512, Golconda, IL 62938

PLEASE TAKE NOTICE that on October 24, 2011, 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 and ENTRY OF APPEARANCE, copies of which are attached hereto and herewith served upon you. Failure to file an answer to this Complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in this 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.

FURTHER, please take notice that financing may be available, through the Illinois Environmental Facilities Financing Act, 20 ILCS 3515/1 (2010), to correct the pollution alleged in the Complaint filed in this case.

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: 
RACHEL R. MEDINA
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: October 24, 2011

CERTIFICATE OF SERVICE

I hereby certify that I did on October 24, 2011, cause to be served by Certified Mail, Return Receipt Requested, 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 and ENTRY OF APPEARANCE upon Cave in Rock, c/o Frederick Turner, Jr., Attorney at Law, 207 E. Main Street, P.O. Box 512, Golconda, IL 62938.



Rachel R. Medina
Assistant Attorney General

This filing is submitted on recycled paper.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)

Complainant,)

vs.)

VILLAGE OF CAVE IN ROCK, an Illinois)
municipal corporation, and)

MAIER'S TIDY BOWL, INC., an Illinois)
corporation,)

Respondents.)

PCB No.
(Enforcement - Water)

NOTICE OF ELECTRONIC FILING

To: MAIER'S TIDY BOWL, INC., c/o Robert Wilson, Attorney at Law, 117 West Poplar Street,
P.O. Box 544, Harrisburg, IL 62946

PLEASE TAKE NOTICE that on October 24, 2011, 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 AS TO RESPONDENT MAIER'S TIDY BOWL, INC., 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: *Rachel R. Medina*
Rachel R. Medina
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: October 24, 2011

CERTIFICATE OF SERVICE

I hereby certify that I did on October 24, 2011, 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 AS TO RESPONDENT MAIER'S TIDY BOWL, INC., upon the following:

Robert Wilson
Law Office of Robert C. Wilson
117 West Poplar Street
P.O. Box 544
Harrisburg, IL 62946



Rachel R. Medina
Assistant Attorney General

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)

Complainant,)

vs.)

VILLAGE OF CAVE IN ROCK, an Illinois)
municipal corporation, and)

MAIER'S TIDY BOWL, INC., an Illinois)
corporation,)

Respondents.)

PCB No.
(Enforcement - Water)

ENTRY OF APPEARANCE

On behalf of the Complainant, PEOPLE OF THE STATE OF ILLINOIS, RACHEL R. MEDINA, Assistant Attorney General of the State of Illinois, hereby enters her appearance as attorney of record.

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: *Rachel R Medina*
RACHEL R. MEDINA
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: October 24, 2011

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
vs.)	PCB No.
)	(Enforcement - Water)
VILLAGE OF CAVE IN ROCK, an Illinois)	
municipal corporation, and)	
MAIER'S TIDY BOWL, INC., an Illinois)	
corporation,)	
)	
Respondent.)	

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 and Stipulation and Proposal for Settlement as to Respondent Maier's Tidy Bowl, Inc., are being filed simultaneously with the Illinois Pollution Control Board ("Board") in this matter.
2. PEOPLE OF THE STATE OF ILLINOIS and Respondent MAIER'S TIDY BOWL, INC. only, 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: *Rachel R. Medina*
Rachel R. Medina
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: October 24, 2011

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB NO.
)	(Enforcement – Water)
VILLAGE OF CAVE IN ROCK, an Illinois)	
municipal corporation, and)	
MAIER'S TIDY BOWL, INC., an Illinois)	
Corporation,)	
)	
Respondent.)	

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and at the request of the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, complains of Respondent, VILLAGE OF CAVE IN ROCK, an Illinois municipal corporation, and MAIER'S TIDY BOWL, INC., an Illinois Corporation, as follows:

COUNT I

WATER POLLUTION

1. This Complaint is brought by the Attorney General on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2008).

2. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2008), and charged *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board ("Board").

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 (2008), and

charged with the duty of promulgating regulations under the Act, pursuant to Section 26 of the Act, 415 ILCS 5/26 (2008).

4. The Village of Cave In Rock ("the Village") is an Illinois municipal corporation authorized to do business in the State of Illinois.

5. Maier's Tidy Bowl, Inc., a septic hauling company, is a registered Illinois corporation ("Maier's"). The President and Registered Agent for Maier's is Henry W. Maier, 12515 U.S. Hwy 45, South Stonefort, IL 62987.

6. The Village operates a wastewater treatment plant, Village of Cave-In-Rock STP ("WWTP"), located in the east half of section 14, Township 12 South, Range 3 East of the Third Meridian, Village of Cave-In-Rock, Hardin County, Illinois. The WWTP consists of a two-cell lagoon with two dual pump wet well/dry well lift stations. The lift stations are located at the west end of Jefferson Street, Village of Cave-In-Rock, Hardin County, Illinois. The WWTP discharges treated municipal sewage to an unnamed tributary to the Ohio River ("unnamed tributary") pursuant to National Pollutant Discharge Elimination System ("NPDES") Permit No. IL0055581.

7. On or about October 4, 2009, at a time better known by the Respondent, heavy rainfall and malfunctioning pumps at the lift station for the WWTP caused a high level overflow of raw sewage at the lift station. One of two pumps installed at the second lift station had malfunctioned leaving only one pump operable. Then, at the time of the overflow incident, the remaining pump malfunctioned.

8. On or before October 7, 2009, the Village hired Maier's to pump out the lift stations wells for the WWTP due to the malfunction of pumps at the lift station.

9. On October 7, 2009, the access hatches for the wet and dry wells were open and each well contained raw sewage. Hoses were extended down into the wet well for pumping. Maier's pumped raw sewage from the wet well of the Village's WWTP into a septic hauling truck and subsequently discharged the waste from the truck into the unnamed tributary adjacent to the WWTP.

10. On October 7, 2009, a Village official directed Maier's to discharge to the unnamed tributary and not to the WWTP lagoon due to an apparent maintenance problem with a pipe in the lagoon.

11. Section 12 of the Act, 415 ILCS 5/12 (2008), provides, in pertinent part, as follows:

No person shall:

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

12. A "contaminant" is defined under Section 3.165 of the Act, 415 ILCS 5/3.165 (2008), as follows:

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

13. A "person" is defined under Section 3.315 of the Act, 415 ILCS 5/3.315 (2008), 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.

14. "Water Pollution" is defined under Section 3.545 of the Act, 415 ILCS 5/3.545 (2008), 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.

15. "Waters" of the State are defined under Section 3.550 of the Act, 415 ILCS 5/3.550 (2008), 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.

16. The Respondents are "person[s]" as defined under Section 3.315 of the Act, 415 ILCS 5/3.315 (2008).

17. Raw sewage is a "contaminant" as defined under Section 3.165 of the Act, 415 ILCS 5/3.165.

18. The Ohio River and the unnamed tributary are waters of the State as defined under Section 3.550 of the Act, 415 ILCS 5/3.550 (2008).

19. The discharge of raw sewage into waters of the State having created or likely created a nuisance, is water pollution as defined under Section 3.545 of the Act, 415 ILCS 5/3.545 (2008).

20. By causing or allowing the discharge of raw sewage into waters of the State so as to cause water pollution, Respondents violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2008).

PRAYER FOR RELIEF

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

- A. Authorizing a hearing in this matter at which time the Respondents will be required to answer the allegations herein;
- B. Finding that Respondents have violated the Act as alleged herein;
- C. Ordering Respondents 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) (2008), 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

OVERFLOW VIOLATION

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

21. 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.

22. At all times relevant to this Complaint, the Village had an NPDES permit (Permit No. IL0055581) for point source discharges from the WWTP.

23. The Standard Conditions of Permit No. IL0055581 provide, in part, as follows:

(25) The permittee shall comply with, in addition to the requirements of the permit, all applicable provisions of 35 Ill. Adm. Code, Subtitle C, Subtitle D, Subtitle E, and all applicable orders of the Board.

24. Section 306.304 of Subtitle C of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 306.304, provides:

Overflows from sanitary sewers are expressly prohibited.

25. Section 12 of the Act, 415 ILCS 5/12 (2008), 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, 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.

26. By allowing untreated sewage to overflow or bypass the lift station and sanitary sewer lines, Respondent, Village of Cave-In-Rock, violated Section 306.304 of the Board's Water Pollution Regulations 35 Ill. Adm. Code 306.304, NPDES Permit Conditions, and Section 12(f) of the Act, 415 ILCS 5/12(f) (2008).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent, Village of Cave-In-Rock:

- 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 has violated the Act as alleged herein;
- C. Ordering the 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) (2008), 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 CONDITIONS

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

21. Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203, provides:

Offensive Conditions

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. The allowed mixing provisions of Section 302.102 shall not be used to comply with the provisions of this Section.

22. By allowing a discharge of black, odorous, raw sewage directly to the unnamed tributary thereby causing color and odor of unnatural origin in the unnamed tributary, Respondents violated Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203, and Section 12(a) of the Act, 415 ILCS 5/12(a) (2008).

PRAYER FOR RELIEF

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

- A. Authorizing a hearing in this matter at which time the Respondents will be required to answer the allegations herein;
- B. Finding that Respondents have violated the Act as alleged herein;
- C. Ordering Respondents 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) (2008), 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

OFFENSIVE DISCHARGE

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

21. "Effluent" is defined under Section 301.275 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 301.275, as follows:

"Effluent" means any wastewater discharged, directly or indirectly, to the waters of the State or to any storm sewer, and the runoff from land used for the disposition of wastewater or sludges, but does not otherwise include nonpoint source discharges such as runoff from land or any livestock management facility or livestock wastehandling facility subject to regulation under Subtitle E.

22. Section 304.106 of the Board's Water Pollution Regulations, 35 Ill.

Adm. Code 304.106, provides:

Offensive Discharges

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.

23. By causing or allowing a liquid discharge exhibiting a raw sewage odor from sanitary sewer lines across a parking lot and into the Ohio River, Respondent, Village of Cave-In-Rock, violated Section 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) (2008).

24. By causing or allowing a liquid discharge exhibiting obvious turbidity and a raw sewage odor to the unnamed tributary, Respondents violated Section 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) (2008).

PRAYER FOR RELIEF

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

- A. Authorizing a hearing in this matter at which time the Respondents will be required to answer the allegations herein;
- B. Finding that Respondents have violated the Act as alleged herein;
- C. Ordering Respondents 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) (2008), 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

SYSTEM MAINTENANCE VIOLATIONS

1-26. Complainant realleges and incorporates by reference herein paragraphs 1 through 20 of Count I and paragraphs 21 through 26 of Count II as paragraphs 1 through 26 of this Count V.

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

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.

28. By failing to maintain an operable backup pump at its lift station so as to minimize violations of applicable standards, the Respondent, Village of Cave-In-Rock, violated Section 306.102(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 306.102(a).

29. By causing, threatening, or allowing the discharge of raw sewage so as to violate Board regulations, Respondent, Village of Cave-In-Rock, violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2008).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent, Village of Cave-In-Rock:

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) (2008), 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: 10/23/11

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB NO.
)	(Enforcement - Water)
VILLAGE OF CAVE IN ROCK, an)	
Illinois municipal corporation, and)	
MAIER'S TIDY BOWL, INC., an Illinois)	
Corporation,)	
)	
Respondent.)	

**STIPULATION AND PROPOSAL FOR SETTLEMENT
AS TO RESPONDENT MAIER'S TIDY BOWL, INC.**

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 MAIER'S TIDY BOWL, INC. ("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.* (2008), 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 as to Respondent Maier's Tidy Bowl, Inc.

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 (2008), 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 (2008).

3. At all times relevant to the Complaint, Respondent was and is a registered corporation that is authorized to transact business in the State of Illinois. At all times relevant to the Complaint, Respondent owned and operated a septic hauling company with a business address of 12515 U.S. Hwy 45, South Stonefort, Saline County, Illinois ("site").

4. On or about October 7, 2009, the Village of Cave In Rock ("Village") hired the Respondent to pump out the lift station wells for the Village's wastewater treatment plant ("WWTP") due to the malfunction of pumps at the lift station.

5. On October 7, 2009, the access hatches for the wet and dry wells were open and each well contained raw sewage. Hoses were extended down into the wet well for pumping. The Respondent pumped raw sewage from the wet well of the Village's WWTP into a septic hauling truck and subsequently discharged the waste from the truck into the unnamed tributary adjacent to the WWTP. A Village official directed the Respondent to discharge to the unnamed tributary instead of to the WWTP lagoon due to an apparent maintenance problem with a pipe in the lagoon.

B. Allegations of Non-Compliance

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

Water Pollution

By causing or allowing the discharge of raw sewage into waters of the State so as to cause water pollution, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2008).

Offensive Conditions

By allowing a discharge of black, odorous, raw sewage directly to the unnamed tributary thereby causing color and odor of the unnatural origin in the unnamed tributary, Respondent violated Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203, and Section 12(a) of the Act, 415 ILCS 5/12(a) (2008).

Offensive Discharge

By causing or allowing a liquid discharge exhibiting obvious turbidity and a raw sewage odor to the unnamed tributary, Respondent violated Section 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) (2008).

C. Non-Admission of Violations

The Respondent represents that it has entered into this Stipulation for the purpose of settling and compromising disputed claims without having to incur the expense of contested litigation. By entering into this Stipulation and complying with its terms, the Respondent does not affirmatively admit the allegations of violation within the Complaint and referenced within Section I.B herein, and this Stipulation shall not be interpreted as including such admission.

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 (2008).

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

Section 33(c) of the Act, 415 ILCS 5/33(c)(2008), 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 unlawful discharge of untreated wastewater from the Village's sanitary sewer to the unnamed tributary caused water pollution and threatened human health.

2. The parties agree that the Respondent's operations are of economic benefit to the surrounding community. Any social benefit is derived primarily from those employed by the Respondent.

3. Respondent's operations are suitable to the area in which they occur.

4. The parties agree it is both technically practicable and economically reasonable to take steps to comply with the requirements of the Act, 415 ILCS 5/1 *et seq.* (2008), and associated regulations.

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)(2008), provides as follows:

In determining the appropriate civil penalty to be imposed under . . . this Section, the Board is authorized to consider any matters of record in mitigation or aggravation of penalty, including but not limited to the following factors:

1. the duration and gravity of the violation;
2. the presence or absence of due diligence on the part of the respondent in attempting to comply with requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;
3. any economic benefits accrued by the respondent because of delay in compliance with requirements, in which case the economic benefits shall be determined by the lowest cost alternative for achieving compliance;

4. the amount of monetary penalty which will serve to deter further violations by the respondent and to otherwise aid in enhancing voluntary compliance with this Act by the respondent and other persons similarly subject to the Act;
5. the number, proximity in time, and gravity of previously adjudicated violations of this Act by the respondent;
6. whether the respondent voluntarily self-disclosed, in accordance with subsection i of this Section, the non-compliance to the Agency; and
7. whether the respondent has agreed to undertake a "supplemental environmental project," which means an environmentally beneficial project that a respondent agrees to undertake in settlement of an enforcement action brought under this Act, but which the respondent is not otherwise legally required to perform.

In response to these factors, the Parties to the Stipulation state as follows:

1. The Respondent unlawfully discharged untreated wastewater from the Village's sanitary sewer system to an unnamed tributary on October 7, 2009.
2. Upon instruction from the Illinois EPA inspector, the Respondent ceased the discharge, readily acknowledged its action and expressed commitment to not repeat the violation.
3. The Respondent was hired by the Village to pump out and discharge the untreated wastewater and thus gained no apparent economic benefit by discharging unlawfully.
4. Complainant has determined, based upon the specific facts of this matter, that a penalty of One Thousand Nine Hundred Twenty-Five Dollars (\$1,925.00) 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 violations were reported by a complainant.
7. The settlement of this matter does not include a supplemental environmental project.

V. TERMS OF SETTLEMENT

A. Penalty Payment

1. The Respondent shall pay a civil penalty in the sum of One Thousand Nine Hundred Twenty-Five Dollars (\$1,925.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

B. Stipulated Penalties, 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:

Environmental Bureau
Illinois Attorney General's Office
500 South Second Street
Springfield, Illinois 62706

D. Future Compliance

1. This Stipulation in no way affects the responsibilities of the Respondent to comply with any other federal, state or local laws or regulations, including but not limited to the Act and the Board Regulations.

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

E. Release from Liability

In consideration of the Respondent's payment of the \$1,925.00 penalty, its commitment to cease and desist 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 contemporaneously 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. 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.

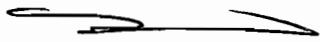
PEOPLE OF THE STATE OF ILLINOIS,

FOR THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY


LISA MADIGAN
Attorney General
State of Illinois

LISA BONNETT, Interim Director
Illinois Environmental Protection Agency

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

BY: 

THOMAS DAVIS, Chief
Environmental Bureau
Assistant Attorney General


BY: 

JOHN J. KIM
Chief Legal Counsel

DATE: 9/05/11

DATE: 9/10/11

MAIER'S TIDY BOWL, INC.

BY: 

HENRY W. MAIER
President

DATE: 8/18/11