

RESOLUTION NO. 7-20

A RESOLUTION APPROVING AND AUTHORIZING THE VILLAGE TO ENTER INTO A COMPLIANCE COMMITMENT AGREEMENT WITH THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

WHEREAS, the Village of Chatham (“Village”) is an Illinois Municipal Corporation existing and operating under the Illinois Municipal Code and the laws of the State of Illinois; and

WHEREAS, the Constitution of the State of Illinois, 1970, Article VII, Section 10 authorizes units of local government to contract or otherwise associate among themselves in any manner not prohibited by law or ordinance; and,

WHEREAS, on December 20, 2019, the Illinois EPA sent Violation Notice W-2019-50227 to the Village contending that the Village failed to obtain a general NPDES storm water permit for construction activity and that the Village engaged in certain storm water violations; and,

WHEREAS, prior to and subsequent to the December 20, 2019 Violation Notice, the Village took steps to attain compliance with the allegations contained within the notice; and,

WHEREAS, on February 7, 2020, the Illinois EPA sent a proposed Compliance Commitment Agreement to the Village, which contains terms and conditions that the Illinois EPA has determined are necessary in order for you to attain compliance with the Illinois Environmental Protection Act and Illinois Pollution Control Board Regulations; and,

WHEREAS, the Board of Trustees of the Village believe it is in the best interest of the Village to enter into the Compliance Commitment Agreement.

NOW THEREFORE, BE IT RESOLVED by the President and Board of Trustees of the Village of Chatham, Sangamon County, Illinois, as follows:

Section 1. Recitals. The foregoing recitals shall be and are hereby incorporated into and made a part of this Resolution as if fully set forth in this Section 1.

Section 2. Approval of Agreement. The Village Board of Trustees hereby authorizes the Village to enter the Compliance Commitment Agreement attached hereto as **Exhibit A**. The Village Manager is hereby authorized to execute the Agreement on behalf of the Village.

Section 3. Effective Date. This Resolution shall be in full force and effect from and after its passage and approval.

SO RESOLVED this 25 day of Feb., 2020.

	YES	NO	ABSENT	PRESENT
KRISTEN CHIARO	X			
ANDREW DETMERS	X			
BRETT GERGER	X			
RYAN MANN	X			
MATT MAU	X			
PAUL SCHERSCHEL	X			
DAVE KIMSEY				
TOTAL	6	0		

APPROVED by the President of the Village of Chatham, Illinois this 25 day of Feb., 2020.


 Dave Kimsey, Village President

Attest:

 Amy Dahlkamp, Village Clerk

EXHIBIT A
COMPLIANCE COMMITMENT AGREEMENT



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-3397

JB PRITZKER, GOVERNOR

JOHN J. KIM, DIRECTOR

217-782-9861

February 7, 2020

CERTIFIED MAIL # 7019 1120 0001 3038 0772
RETURN RECEIPT REQUESTED

Village of Chatham
Attn: Patrick McCarthy
116 E. Mulberry Street
Chatham, IL 62629

**Re: Proposed Compliance Commitment Agreement
Chatham, Village of – W1670300002
Violation Notice: W-2019-50227**

Dear Mr. McCarthy:

The Illinois Environmental Protection Agency (“Illinois EPA”) has reviewed the proposed Compliance Commitment Agreement (“CCA”) terms submitted by **Chatham, Village of** in a letter received **January 23, 2020**, in response to the Violation Notice dated **December 20, 2019**. Pursuant to the authority vested in the Illinois EPA under Section 31(a)(7)(i) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31(a)(7)(i), attached to this letter is a proposed CCA, which contains terms and conditions that the Illinois EPA has determined are necessary in order for you to attain compliance with the Act and Illinois Pollution Control Board Regulations.

Pursuant to Section 31(a)(7.5) of the Act, 415, ILCS 5/31(a)(7.5), within 30 days of your receipt of this proposed CCA, **Chatham, Village of** or its duly authorized representative must either (1) agree to and sign the proposed CCA, and submit the signed and dated CCA by certified mail to Illinois EPA Division of Water Pollution Control, Attn.: Caleb Ruyle/CAS#19, P.O. Box 19276, Springfield, IL 62794-9276; or (2) notify the Illinois EPA by certified mail that **Chatham, Village of** rejects the proposed CCA.

The proposed CCA shall only become effective upon your timely submittal of the signed CCA as discussed above, and upon final execution by the Illinois EPA. Failure by **Chatham, Village of** to execute and submit the proposed CCA within 30 days of receipt shall be deemed a rejection of the CCA by operation of law. Upon timely receipt of the signed CCA, the Illinois EPA will send you a fully executed copy of the CCA for your records.

Page 2 of 2

Chatham, Village of

VN W-2019-50227

In addition, the proposed CCA is not subject to amendment or modification prior to execution by **Chatham, Village of** and the Illinois EPA. Any amendment or modification to the proposed CCA by Respondent prior to execution by **Chatham, Village of** and the Illinois EPA shall be deemed a rejection of the proposed CCA by operation of law. The proposed CCA may only be amended subsequent to its effective date, in writing, and by mutual agreement between the Illinois EPA and **Chatham, Village of**.

Questions regarding this matter should be directed to Caleb Ruyle at 217/782-9861. Written communications should be directed to:

Illinois EPA – Division of Water Pollution Control
Attn: Caleb Ruyle/CAS #19
P.O. Box 19276
Springfield, IL 62794-9276

Sincerely,



James L. Miles
Acting Manager, Compliance Assurance Section
Division of Water Pollution Control
Bureau of Water

Attachment

III. Compliance Activities

4. On **January 23, 2020**, the Illinois EPA received Respondent's response to **VN W-2019-50227**, which included proposed terms for a CCA. The Illinois EPA has reviewed Respondent's proposed CCA terms, as well as considered whether any additional terms and conditions are necessary to attain compliance with the alleged violations cited in the VN.
5. Respondent agrees to undertake, and complete the following actions, which the Illinois EPA has determined are necessary to attain compliance with the allegations contained in **VN W-2019-50227**:
 - a) **Chatham, Village of** submitted a NOI and SWPPP on October 10, 2019 as required to obtain a General NPDES Storm Water Permit for Construction Activity.
 - b) **Chatham, Village of** obtained a General NPDES Storm Water Permit (ILR10BC59) for Construction Activity on November 11, 2019.
 - c) **Chatham, Village of** had a final site visit conducted on December 6, 2019 and it was determined that 70% vegetation had been established as required by the permit. A Notice of Termination was submitted on December 9, 2019.
 - d) Once all violations are corrected and compliance is achieved, the Respondent must submit a completed statement of compliance form (Attached) certifying that all Compliance Commitment Agreement measures/events have been successfully completed. Sign and submit enclosed Compliance Statement with original signatures.

IV. Terms and Conditions

6. Respondent shall comply with all provisions of this CCA, including, but not limited to, any appendices to this CCA and all documents incorporated by reference into this CCA. Pursuant to Section 31(a)(10) of the Act, 415 ILCS 5/31(a)(10), if Respondent complies with the terms of this CCA, the Illinois EPA shall not refer the alleged violations that are the subject of this CCA, as described in Section II above, to the Office of the Illinois Attorney General or the State's Attorney of the county in which the alleged violations occurred. Successful completion of this CCA or an amended CCA shall be a factor to be weighed, in favor of the Respondent, by the Office of the Illinois Attorney General in determining whether to file a complaint on its own motion for the violations cited in **VN W-2019-50227**.
7. This CCA is solely intended to address the violations alleged in Illinois EPA **VN W-2019-50227**. The Illinois EPA reserves, and this CCA is without prejudice to, all rights of the Illinois EPA against Respondent with respect to noncompliance with any term of this CCA, as well as to all other matters. Nothing in this CCA 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 Illinois EPA may have against Respondent, or any other person as defined by Section 3.315 of the Act, 415 ILCS 5/3.315. This CCA in no way affects the responsibilities of Respondent to comply with any other federal, state or local laws or regulations, including but not limited to the Act, and the Board Regulations.
8. Pursuant to Section 42(k) of the Act, 415 ILCS 5/42(k), in addition to any other remedy or penalty that may apply, whether civil or criminal, Respondent shall be liable for an additional civil penalty of \$2,000 for violation of any of the terms or conditions of this CCA.
9. This CCA shall apply to and be binding upon the Illinois EPA, and on Respondent and Respondent's officers, directors, employees, agents, successors, assigns, heirs, trustees, receivers, and upon all persons, including but not limited to contractors and consultants, acting on behalf of Respondent, as well as upon subsequent purchasers of Respondent's sanitary sewer.
10. In any action by the Illinois EPA to enforce the terms of this CCA, Respondent consents to and agrees not to contest the authority or jurisdiction of the Illinois EPA to enter into or enforce this CCA, and agrees not to contest the validity of this CCA or its terms and conditions.

11. This CCA shall only become effective:
- a) If, within 30 days of receipt, Respondent executes this CCA and submits it, via certified mail, to Illinois EPA Division of Water Pollution Control, Attn: Caleb Ruyle/CAS #19, P.O. Box 19276, Springfield, IL 62794-9276. If Respondent fails to execute and submit this CCA within 30 days of receipt, via certified mail, this CCA shall be deemed rejected by operation of law; and
 - b) Upon execution by all Parties.
12. Pursuant to Section 31(a)(7.5) of the Act, 415 ILCS 5/31(a)(7.5), this CCA shall not be amended or modified prior to execution by the Parties. Any amendment or modification to this CCA by Respondent prior to execution by all Parties shall be considered a rejection of the CCA by operation of law. This CCA may only be amended subsequent to its effective date, in writing, and by mutual agreement between the Illinois EPA and Respondent's signatory to this CCA, Respondent's legal representative, or Respondent's agent.

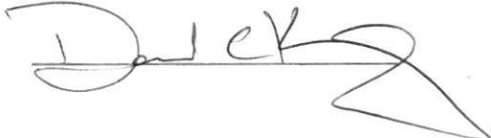
AGREED:

FOR THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY:

BY: _____
James L. Miles, Acting Manager
Wastewater Compliance Assurance Section
Bureau of Water

DATE: _____

FOR RESPONDENT:

BY:  _____

DATE: _____

Illinois EPA Compliance Statement

You are required to state that you have returned to compliance with the Act and the regulations that were the subject of the violation notice (VN) (415 ILCS 5/31). The owner of the facility must acknowledge compliance and/or that all compliance commitment agreement (CCA) interim measures/events have been successfully completed and compliance has been achieved.

Please complete, sign, and return.

I Patrick M. McCarthy (print name), hereby certify that all violations addressed in Violation Notice (VN) number W-2019-50227 have been addressed and that compliance was achieved on 1-23-2020 (date).

Patrick M. McCarthy
Signature

Village Manager
Title

217-483-2451
Telephone Number

2-26-2020
Date

Be sure to retain copies of this document for your files. Should you need additional notification forms, please contact this office at (217)785-0561. Return this completed form to:

Illinois Environmental Protection Agency
Compliance Assurance Section #19
Bureau of Water
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

"Any person who knowingly makes a false, fictitious, or fraudulent material statement, orally or in writing, to the Agency,.....related to or required by this Act, a regulation adopted under this Act, any federal law or regulation for which the Agency has responsibility, or any permit, term, or condition thereof, commits a Class 4 felony..." (415 ILCS 5/44(h) (8))

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Please complete, sign, and return.

I _____ (*print name*), hereby certify that all violations addressed in Violation Notice (VN) number _____ have been addressed and that compliance was achieved on _____ (*date*).

Signature

Title

Telephone Number

Date

Be sure to retain copies of this document for your files. Should you need additional notification forms, please contact this office at (217)785-0561. Return this completed form to:

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