

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB No. 22-26
)	(Enforcement - Air)
CBJS REAL ESTATE INC., an Illinois)	
corporation,)	
)	
Respondent.)	

NOTICE OF FILING

To: Persons on Attached Service List

PLEASE TAKE NOTICE that I have today caused to be filed with the Clerk of the Illinois Pollution Control Board by electronic filing the Motion for Relief from Hearing Requirement and Stipulation and Proposal for Settlement, true and correct copies of which are attached hereto and hereby served upon you.

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

By: /s/ Kathryn A. Pamenter
Kathryn A. Pamenter
Senior Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington St., 18th Floor
Chicago, Illinois 60602
(773) 590-7824
Kathryn.Pamenter@ilag.gov

Date: March 23, 2022

SERVICE LIST

Via Email

CBJS Real Estate Inc.
c/o – Cyriac K. Chandy, Registered Agent
960 Rand Road, Suite 208
Des Plaines, IL 60016
stmaryspetroleum1@gmail.com

Via Email

CBJS Real Estate Inc.
c/o Michael Bryant
960 Rand Road, Suite 208
Des Plaines, IL 60016
stmaryspetroleum@gmail.com

Via Email

Brad Halloran, Esq.
Hearing Officer
Illinois Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601
Brad.Halloran@illinois.gov

CERTIFICATE OF SERVICE

I, Kathryn A. Pamenter, a Senior Assistant Attorney General, do certify that on this 23rd day of March, 2022, I caused to be served a copy of the foregoing Notice of Filing, Motion for Relief from Hearing Requirement, and Stipulation and Proposal for Settlement upon the persons listed on the attached Service List as set forth therein.

/s/ Kathryn A. Pamenter
Kathryn A. Pamenter
Senior Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602
(773) 590-7824
Kathryn.Pamenter@ilag.gov

Date: March 23, 2022

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MOTION FOR RELIEF FROM HEARING REQUIREMENT

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, 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) (2020), moves that the Illinois Pollution Control Board (“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) (2020). In support of this motion, Complainant states as follows:

1. The Complaint in this matter alleges violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2020), and Sections 218.586(i)(1)(B), 218.586(i)(2)(A), and 218.586(i)(2)(C) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(1)(B), 218.586(i)(2)(A), and 218.586(i)(2)(C).
2. Complainant filed the Complaint on December 8, 2021.
3. The parties have reached agreement on all outstanding issues in this matter.
4. This agreement is presented to the Board in a Stipulation and Proposal for Settlement.

5. 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) (2020).

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) (2020), and such other relief as the Board deems appropriate.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

KWAME RAOUL
Attorney General
State of Illinois

BY: /s/ Kathryn A. Pamenter
Kathryn A. Pamenter
Senior Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
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STIPULATION AND PROPOSAL FOR SETTLEMENT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (“Illinois EPA”), and CBJS REAL ESTATE INC., an Illinois corporation (“Respondent”), (collectively “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.* (2020), and the Board’s regulations, alleged in the Complaint except as otherwise provided herein. It is the intent of the Parties to the Stipulation that it be a final adjudication of this matter.

I. STATEMENT OF FACTS

A. Parties

1. On December 8, 2021, a Complaint was filed on behalf of the People of the State of Illinois by Kwame Raoul, Attorney General of the State of Illinois, on his own motion and upon the request of Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2020), against Respondent.

2. Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2020).

3. At all times relevant to this Complaint, Respondent has been and is an Illinois corporation in good standing with the Illinois Secretary of State.

4. At all times relevant to this Complaint, Respondent operated, and continues to operate, a gasoline dispensing facility located at 1150 Prairie Street, Aurora, Kane County, Illinois (the "Facility").

B. Allegations of Non-Compliance

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

Count I: Failure to Timely Decommission Vapor Collection and Control System and Submit Reports in violation of Section 9(a) of the Act, 415 ILCS 5/9(a) (2020), and Sections 218.586(i)(1)(B), 218.586(i)(2)(A), and 218.586(i)(2)(C) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(1)(B), 218.586(i)(2)(A), and 218.586(i)(2)(C).

C. Non-Admission of Violations

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, 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.

D. Compliance Activities to Date

1. On or about January 6, 2022, Respondent submitted a decommissioning checklist, certification, and test results to Illinois EPA.

2. According to the decommissioning checklist submitted to Illinois EPA, Respondent

has decommissioned its vapor collection and control system.

II. APPLICABILITY

This Stipulation shall apply to and be binding upon the Parties to the Stipulation. 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 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. Complainant contends that human health and the environment were threatened and

the Illinois EPA's information gathering responsibilities were hindered by the Respondent's violations.

2. There is social and economic benefit to the Facility.
3. Operation of the Facility was and is suitable for the area in which it is located.
4. Timely submission to Illinois EPA of a notice of intent to decommission the Facility's vapor collection and control system, timely decommissioning of its vapor collection and control system, and timely submission of a decommissioning checklist, certification, and test results to Illinois EPA, were both technically practicable and economically reasonable.
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) (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. Respondent failed to submit a notice of intent to Illinois EPA to decommission its vapor collection and control system, failed to timely decommission its vapor collection and control system, and failed to timely submit a decommissioning checklist, certification, and test results to Illinois EPA. The violations began on January 1, 2017, and were resolved by submitting a decommissioning checklist, certification, and test results to Illinois EPA on or about January 6, 2022.
2. Respondent was diligent in attempting to come back into compliance with the Act and Board regulations once Illinois EPA notified it of its noncompliance.
3. The civil penalty takes into account any economic benefit realized by Respondent as a result of avoided or delayed compliance.
4. Complainant has determined, based upon the specific facts of this matter, that a penalty of Two Thousand Five Hundred Dollars (\$2,500.00) 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

Respondent shall pay a civil penalty in the sum of Two Thousand Five Hundred Dollars (\$2,500.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

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, 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 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 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, Illinois 62794-9276

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:

Kathryn A. Pamerter
Senior Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602

D. Future Compliance

1. In addition to any other authorities, Illinois EPA, its employees and representatives, and the Attorney General, his employees and representatives, shall have the right of entry into and upon Respondent's Facility, which is the subject of this Stipulation, at all reasonable times for the purposes of conducting inspections and evaluating compliance status. In conducting such inspections, Illinois EPA, its employees and representatives, and the Attorney General, his employees and representatives, may take photographs, samples, and collect information, as they deem necessary.

2. This Stipulation 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.

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 Respondent's payment of the \$2,500.00 penalty, its commitment to cease and desist as contained in Section V.D.3 above, completion of all activities required hereunder, and upon the Board's approval of this Stipulation, the Complainant releases, waives and discharges 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 on December 8, 2021. The Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against 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 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 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. 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. This Stipulation may be executed by the parties in one or more counterparts, all of which taken together shall constitute one and the same instrument.

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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

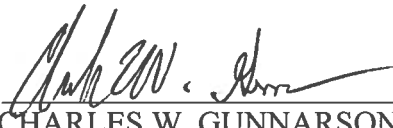
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

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: 
STEPHEN J. SYLVESTER, Chief
Environmental Bureau
Assistant Attorney General

BY: 
CHARLES W. GUNNARSON
Chief Legal Counsel

DATE: 3/22/22

DATE: 3/22/22

RESPONDENT

CBJS REAL ESTATE INC.

By: _____
Its: _____

DATE: _____

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

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Attorney General
State of Illinois

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

JOHN J. KIM, Director
Illinois Environmental Protection Agency

BY: _____
STEPHEN J. SYLVESTER, Chief
Environmental Bureau
Assistant Attorney General

BY: _____
CHARLES W. GUNNARSON
Chief Legal Counsel

DATE: _____

DATE: _____

RESPONDENT

CBJS REAL ESTATE INC.

By: *Cynthia K. Crandy*
Its: PRESIDENT

DATE: 3/18/2022