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STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
LISA MADIGAN, Attorney General)
of the State of Illinois,)
)
Complainant,)
)
vs.)
)
HAUCK HOMES, INC., an Illinois)
corporation, d/b/a ROCK RIVER)
ESTATES MOBILE HOME PARK,)
)
Respondent.)

No. PCB 04-94
(Enforcement-Water)

NOTICE OF FILING

TO: Carolyn S. Hesse
Barnes & Thornburg LLP
One North Wacker Drive
Suite 4400
Chicago, IL 60606-2833

Dorothy Gunn
Clerk
Illinois Pollution Control
Board, Suite 11-500
James R. Thompson Center
100 W. Randolph Street
Chicago, IL 60601

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board an original and nine copies of the Stipulation and Proposal for Settlement, an Agreed Motion for Relief from the Hearing Requirement, Notice of Filing and a Certificate of Service, a copy of which is attached herewith and served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN
Attorney General
State of Illinois

BY:

Zemeheret Bereket-AB
ZEMEHERET BEREKET-AB
Assistant Attorney General
Environmental Bureau
188 W. Randolph St., 20th Fl.
Chicago, IL 60601
(312) 814-3816

DATE: January 18, 2005

THIS FILING IS SUBMITTED ON RECYCLED PAPER

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PEOPLE OF THE STATE OF ILLINOIS,)
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corporation, d/b/a ROCK RIVER)
ESTATES MOBILE HOME PARK,)

Respondent.)

No. PCB 04-94
(Enforcement-Water)

AGREED MOTION TO REQUEST RELIEF FROM THE HEARING REQUIREMENT

In support of this Motion, the parties state as follows:

1. Today, the People of the State of Illinois, filed a Stipulation and Proposal for Settlement, with the Illinois Pollution Control Board.

2. Section 31(c)(2) of the Illinois Environmental Protection Act, ("Act"), 415 ILCS 5/31(c)(2)(2002) provides:

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). . . .

3. Complainant and Respondent agree that a formal hearing is not necessary to conclude this matter and wish to avail themselves of Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2)(2002).

WHEREFORE, Complainant and Respondent request relief from
the hearing requirement pursuant to Section 31(c)(2) of the Act.

Respectfully submitted,


PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN
Attorney General
State of Illinois

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

ROSEMARIE CAZEAU, Chief
Environmental Bureau

BY:


ZEMEHERET BEREKET-AB
Assistant Attorney General
Environmental Bureau
188 W. Randolph St., 20th Fl.
Chicago, Illinois 60601
(312) 814-3816

DATE: January 18, 2005

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STATE OF ILLINOIS
Pollution Control Board

[illegible]

No. PCB 04-94
(Enforcement-Water)

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), and Respondent, HAUCK HOMES, INC., an Illinois corporation, d/b/a Rock River Estates Mobile Home Park, ("HHI" and collectively "Parties"), do hereby agree to this Stipulation and Proposal for Settlement ("Stipulation"). The Parties agree that the Statement of Facts contained herein represents a fair summary of the allegations and testimony which would be introduced by the Parties if a full hearing were held. The Parties further stipulate that this Statement of Facts is made and agreed upon for purposes of settlement only and that neither the fact that a party has entered into this Stipulation, nor any of the facts stipulated herein, shall be introduced into evidence in this or any other proceeding except to enforce the terms of this Stipulation. Notwithstanding the previous

sentence, this Stipulation and any Illinois Pollution Control Board ("Board") order accepting same may be used in any future enforcement action as evidence of a past adjudication of violation of the Illinois Environmental Protection Act ("Act") for purposes of Sections 39(i) and 42(h) of the Act, 415 ILCS 39(i) and 5/42(h) (2002). This Stipulation shall be null and void unless the Board approves and disposes of this matter on each and every one of the terms and conditions of the settlement set forth herein.

I.

JURISDICTION

The Board has jurisdiction of the subject matter herein and of the parties consenting hereto pursuant to the Act, 415 ILCS 5/1 et seq (2002).

II.

AUTHORIZATION

The undersigned representative for each party certifies that he/she is fully authorized by the party whom he/she represents to enter into the terms and conditions of this Stipulation and to legally bind the party to it.

III.

APPLICABILITY

This Stipulation shall apply to and be binding upon the Complainant and Respondent, and any officer, director, or agent,

of Respondent, as well as Respondent's successors and assigns. Respondent shall not raise as a defense to any enforcement action taken pursuant to this Stipulation the failure of its officers, directors, agents, servants or employees to take such action as shall be required to comply with the provisions of this Stipulation.

IV.

STATEMENT OF FACTS

A. Parties

1. The Attorney General of the State of Illinois brings this action on her own motion, as well as at the request of the Illinois EPA, pursuant to the terms and provisions of Section 31 of the Act, 415 ILCS 5/31 (2002).

2. The Illinois EPA is an administrative agency established in the executive branch of the state government by Section 4 of the Act, 415 ILCS 5/4 (2002), and is charged, *inter alia*, with the duty of enforcing the Act.

3. Respondent, Hauck Homes, Inc., d/b/a Rock River Estates Mobile Home Park, ("HHI") is an Illinois corporation in good standing. HHI operates three manufactured home communities under its corporate umbrella.

B. Facility Description

1. HHI owns and operates the Rock River Estates Mobile Home Park ("RREMHP") in Dixon, Lee County, Illinois ("Facility").

At the Facility, HHI owns and operates a waste water treatment plant ("WWTP").

2. The WWTP accepts waste from approximately 200-400 sanitary sewer connections.

3. The WWTP at RREMHP consists of an aeration tank, clarifier, aerobic sludge holding tank, polishing pond and disinfection facilities.

C. Alleged Violations

1. The Complaint filed in this matter on December 12, 2003, before the Illinois Pollution Control Board alleges the following violations of the Act, 415 ILCS 5/1 et seq. (2002), Illinois Pollution Control Board ("Board") Water Pollution Regulations, 35 Ill. Adm. Code, and NPDES permit conditions and are outlined as follows:

COUNT I: VIOLATION OF GENERAL EFFLUENT STANDARDS - WATER POLLUTION: Violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2002), and 35 Ill. Adm. Code 304.121(a), 304.141(a), and NPDES permit conditions;

COUNT II: VIOLATION OF NPDES PERMIT OPERATIONAL REQUIREMENTS: Violation of Section 12(f) of the Act, 415 ILCS 5/12(f) (2002), and 35 Ill. Adm. Code 305.102(a) and 306.102(a).

D. Admission of Violation

Respondent denies the violations alleged in the Complaint in this matter and referenced in Section IV.C. herein.

V.

IMPACT ON THE PUBLIC RESULTING FROM NONCOMPLIANCE

Section 33(c) of the Act, 415 ILCS 5/33(c) (2002), 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 Complainant states as follows:

1. Allowing fecal coliform concentrations to exceed the maximum allowed by Board regulations has the potential to cause serious injury to public health and the environment.
2. Respondent's Facility has social and economic value.

3. Respondent's Facility is suitable to the area in which it is located, provided it is operated in compliance with the Act, Board Water Pollution Regulations and applicable permits.

4. Complying with the requirements of the Act, Board Water Pollution Regulations and NPDES permit conditions, was both technically practicable and economically reasonable.

5. Respondent came into compliance by implementing necessary upgrades such as installing backup pumps and blowers to the existing WWTP.

VI.

CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h) (2002), 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 violator 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 violator because of delay in compliance with requirements;
4. the amount of monetary penalty which will serve to deter further violations by the violator and to otherwise aid in enhancing voluntary compliance with this Act by the violator and other persons similarly subject to the Act; and

5. the number, proximity in time, and gravity of previously adjudicated violations of this Act by the violator.
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 Complainant states as follows:

1. On April 27, 1999, the Illinois EPA sent a Violation Notice to HHI informing it of the various deficiencies at the Facility. However, the problems remained uncorrected for over three years, despite HHI's agreement to resolve the problems in its 1999 Compliance Commitment Agreement letter. Respondent, however, states that the alleged problems were corrected and did not continue for three years.

2. Many of the violations continued after the Illinois EPA's initial Violation Notice Letter to HHI in 1999. Respondent denies that any alleged violations continued.

3. Complainant is unable to quantify the economic benefits of noncompliance accrued by Respondent. However, Complainant maintains that the civil penalty agreed to in this case far outweighs any economic benefits Respondent may have gained from

its alleged failure to timely implement necessary upgrades such as backup pumps and blowers to the existing WWTP. Respondent came into compliance by implementing the upgrades such as additional backup pumps and blowers to the existing WWTP as described in Section V(5) above.

4. Complainant has determined in this instance, that a civil penalty of Twelve Thousand Dollars (\$12,000.00) will serve to deter further violations of the Act, Board Water Pollution regulations and NPDES permit conditions and aid in future voluntary compliance with the Act, Board regulations and NPDES permit conditions.

5. Complainant has no records of previously adjudicated violations against HHI.

6. The violations were discovered pursuant to an Illinois EPA inspection.

7. The settlement of this matter does not include a supplemental environmental project.

VII.

TERMS OF SETTLEMENT

A. Civil Penalty

1. Respondent shall pay a civil penalty of Twelve Thousand Dollars (\$12,000.00) into the Illinois Environmental Protection Trust Fund within Thirty (30) days after the date on which the

Board adopts a final order approving this Stipulation and Proposal for Settlement.

2. Payment shall be made by certified check or money order, payable to the Illinois EPA, designated for deposit into the Environmental Protection Trust Fund, and shall be sent by first class mail to:

Illinois Environmental Protection Agency
Fiscal Services
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

Further, a copy of the check or money order shall be sent by first-class mail to:

Zemeheret Bereket-Ab
Assistant Attorney General
Environmental Bureau
188 West Randolph Street, 20th Floor
Chicago, IL 60601

3. Respondent's Federal Employer Identification Number ("FEIN") is 36-4071835. The FEIN number shall appear on the face of the certified check or money order.

4. For purposes of payment and collection Respondent may be reached at the following address:

Kenneth Hauck
Rock River Estates MHP
291 Illinois, Route 2
Dixon, Illinois 61021

5. For purposes of notice Respondent's attorney may be reached at the following address:

Carolyn S. Hesse
Barnes & Thornburg
Suite 4400
One North Wacker Drive
Chicago, Illinois 60606-2809

6. Pursuant to Section 42(g) of the Act, 415 ILCS 5/42(g) (2002), interest shall accrue on any amount not paid within the time prescribed herein, at the maximum rate allowable under Section 1003(a) of the Illinois Income Tax Act, 35 ILCS 5/1003(a) (2004).

- a. Interest on unpaid amounts shall begin to accrue from the date the penalty payment is due and continue to accrue to the date payment is received.
- b. Where partial payment is made on any payment amount that is due, such partial payment shall be first applied to any interest on unpaid amounts then owing.
- c. All interest on amounts owed the Complainant, shall be paid by certified check payable to the Illinois Environmental Protection Agency for deposit in the Environmental Protection Trust Fund and delivered in the same manner as described in this Section VII.A.2.

VIII.

CEASE AND DESIST

Respondent shall cease and desist from future violations of the Act, Board regulations, and NPDES permit conditions, including but not limited to, those Sections of the Act and Board regulations that were the subject matter of the complaint as outlined in Section IV.C of this Stipulation.

IX.

COMPLIANCE WITH OTHER LAWS AND REGULATIONS

This Stipulation in no way affects the Respondent's responsibility to comply with any federal, State or local regulations, including but not limited to the Act and Board regulations.

X.

RELEASE FROM LIABILITY

In consideration of Respondent's payment of Twelve Thousand Dollars (\$12,000.00) civil penalty, and its commitment to refrain from future violations of the Act, Board Water Pollution regulations, and NPDES permit conditions, Complainant releases, waives and discharges Respondent from any further liability or penalties for violations of the Act, Board Water Pollution regulations and NPDES permit conditions which were the subject matter of the complaint filed in this matter on December 12, 2003, and upon the payment of all monies owed. However, nothing

in this Stipulation and Proposal for Settlement shall be construed as a waiver by Complainant of the right to redress future violations or obtain penalties with respect thereto.

WHEREFORE, Complainant and Respondent request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

(The remainder of this page is intentionally left blank.)

AGREED:

FOR THE COMPLAINANT:

LISA MADIGAN
Attorney General of the
State of Illinois

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

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

BY: Rose Marie Cazeau/rab
ROSEMARIE CAZEAU, Chief
Environmental Bureau

BY: Joseph E. Svobeda
JOSEPH E. SVOBODA,
Chief Legal Counsel

DATED: 12/23/04

DATED: 12-21-04

FOR THE RESPONDENT:

HAUCK HOMES, INC., an Illinois Corporation
D/b/a Rock River Estates Mobile Home Park,

BY: K. J. U

TITLE: PRES


FEIN #: 36-4071835

DATED: 1-11-05

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CERTIFICATE OF SERVICE

I, ZEMEHERET BEREKET-AB, an Assistant Attorney General, do certify that I caused to be served on this 18th day of January 2005, the foregoing Notice of Filing, a Stipulation and Proposal for Settlement, and an Agreed Motion for Relief from the Hearing Requirement, upon the persons listed on said Notice by placing same in an envelope bearing sufficient postage with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois.



ZEMEHERET BEREKET-AB