

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD NOV 29 2006

STATE OF ILLINOIS  
Pollution Control Board

THE VILLAGE OF LOMBARD,  
ILLINOIS, an Illinois  
municipality corporation,

Complainant,

v.

BILL'S AUTO CENTER,  
BILL'S STANDARD SERVICE  
and WILLIAM KOVAR,

Respondents.

PCB No. 04-213  
(LUSTS - Cost Recovery)

**NOTICE OF FILING TO RESPONDENTS**

To: Michael J. Maher  
Elizabeth S. Harvey  
Swanson, Martin & Bell  
One IBM Plaza, Suite 3300  
Chicago, Illinois 60611

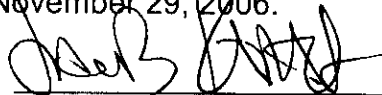
PLEASE TAKE NOTICE that on November 29, 2006, I caused to be filed with the Clerk of the Illinois Pollution Control Board the STATUS REPORT AND AGREED MOTION TO STAY PETITION, true and accurate copies of which are served on you along with this notice.

  
One of Complainant's Attorneys

Dennis G. Walsh  
Lance C. Malina  
Jacob Karaca  
KLEIN, THORPE AND JENKINS, LTD.  
20 North Wacker Drive, Suite 1660  
Chicago, Illinois 60606  
(312) 984-6400  
Atty. No. 90446

**PROOF OF SERVICE**

I, Jacob Karaca, an attorney, certify that I served this Notice of Filing and attachments, by mailing to persons on the Service List above, placed in envelopes, with proper postage pre-paid, addressed to said persons, and depositing the same in the U.S. Mail-chute at 20 North Wacker Drive, Chicago, Illinois 60606-2903, at or before 5:00 p.m. on November 29, 2006.

  
\_\_\_\_\_  
Jacob Karaca

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**RECEIVED**  
CLERK'S OFFICE

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**STATUS REPORT AND AGREED MOTION TO STAY PETITION**

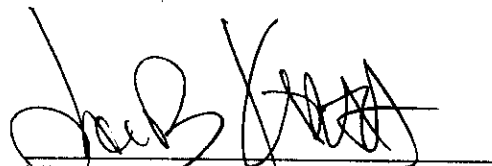
NOW COMES the Claimant, the VILLAGE OF LOMBARD, by and through its attorneys KLEIN THORPE and JENKINS, Ltd., and pursuant to the provisions of the Illinois Pollution Control Board General Provisions, Section 105.514, hereby requests that the Board stay this cause of action for a period of two-hundred ten (210) days, or until **June 27, 2007**. In support of this agreed motion, the Petitioner states:

1. The Village of Lombard, (the "Village") brought this cost-recovery action against the Defendants for reimbursement of costs related to soil remediation on Village property adjacent to the Respondents' property in the Village.
2. After discovery and lengthy negotiations, the parties have reached an agreement and terms of full settlement of the matters related to the Village's case for cost recovery.
3. As a part of their consideration to the Village in this agreement, the Respondents will pay a certain amount of money to the Village over a six month schedule from the date of the execution of the settlement for full release of the claims in their Petition.
4. Thus, the Parties agree that the Illinois Pollution Control Board should stay these proceedings and retain jurisdiction over this case until all

payments have been made and the terms of the settlement are satisfied.

5. "The decision to grant or deny a motion for stay is 'vested in the sound discretion of the Board.'" *Midwest Generation EME, LLC, v. Illinois Environmental Protection Agency*, 2006 WL 2581021, \*3 (Ill. Poll'n Control Bd., Aug. 17, 2006) (quoting *People v. State Oil Co.*, PCB 97-103 (Ill. Poll'n Control Bd., May 15, 2003), *aff'd sub nom State Oil Co. v. PCB*, 822 N.E.2d 876 (2d Dist. 2004)).
6. The agreement between the Parties provides that the Village will voluntarily dismiss this case within 10 business days after the final payment is made.
7. There is no decision deadline pending in this case, and therefore no waiver pursuant to Section 105.514 is required.
8. No prejudice will result to either party or the public in general if this stay is executed; indeed, such a stay will allow the parties to fully resolve their issues related to the prior soil remediation in question in this Petition.

WHEREFORE, the Petitioner, Village of Lombard, respectfully requests, and as agreed by the Respondents, that this Board enter an order staying this case for two-hundred ten (210) days, or until **June 27, 2007**, to provide for the final resolution of this Petition according to the terms agreed to by the Parties in resolution of their dispute.



VILLAGE OF LOMBARD

Dated: November 29, 2006.

Dennis G. Walsh  
Lance C. Malina  
Jacob Karaca  
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