



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

RECEIVED
CLERK'S OFFICE
MAY 09 2008
STATE OF ILLINOIS
Pollution Control Board

May 6, 2008

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board
James R. Thompson Center, Ste. 11-500
100 West Randolph
Chicago, Illinois 60601

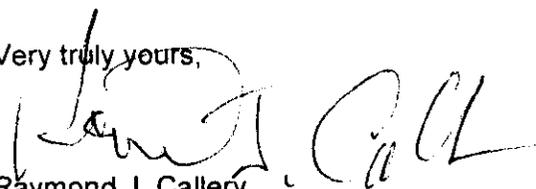
Re: **People v. Bob D. Stagner and Linda S. Stagner**
PCB No. 06-174

Dear Clerk Gunn:

Enclosed for filing please find the original and ten copies of a Notice of Filing, Motion for Relief from Hearing Requirement and Stipulation and Proposal for Settlement in regard to the above-captioned matter. Please file the originals and return file-stamped copies to me in the enclosed, self-addressed envelope. **Also, please note the new mailing address for Respondents.**

Thank you for your cooperation and consideration.

Very truly yours,


Raymond J. Callery
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706
(217) 782-9031

RJC/pp
Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.)
)
BOB D. STAGNER and)
LINDA S. STAGNER, d/b/a)
LB'S CAMPING & MOBILE HOME PARK,)
)
Respondents.)

PCB No. 06-174
(Enforcement - Water)

RECEIVED
CLERK'S OFFICE
MAY 09 2008
STATE OF ILLINOIS
Pollution Control Board

NOTICE OF FILING

To: Bob D. Stagner and Linda S. Stagner
d/b/a LB's Camping & Mobile Home Park
408 S. Fairdale
PO Box 472
Royalton, IL 62983

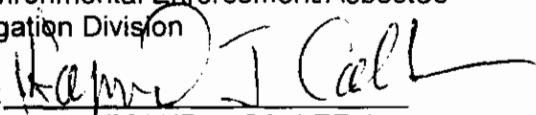
PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois, a MOTION FOR RELIEF FROM HEARING REQUIREMENT and STIPULATION AND PROPOSAL FOR SETTLEMENT, copies of which are attached hereto and herewith served upon you.

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: 
RAYMOND J. CALLERY
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: May 6, 2008

CERTIFICATE OF SERVICE

I hereby certify that I did on May 6, 2008, send by First Class Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instruments entitled NOTICE OF FILING, MOTION FOR RELIEF FROM HEARING REQUIREMENT and STIPULATION AND PROPOSAL FOR SETTLEMENT:

To: Bob D. Stagner and Linda S. Stagner
d/b/a LB's Camping & Mobile Home Park
408 S. Fairdale
PO Box 472
Royalton, IL 62983

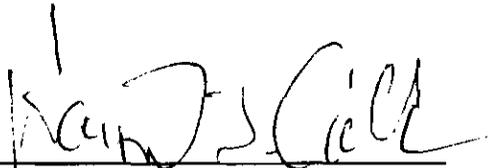
NOTE NEW MAILING ADDRESS FOR RESPONDENTS

and the original and ten copies by First Class Mail with postage thereon fully prepaid of the same foregoing instrument(s):

To: John T. Therriault, Assistant Clerk
Illinois Pollution Control Board
James R. Thompson Center
Suite 11-500
100 West Randolph
Chicago, Illinois 60601

A copy was also sent by First Class Mail with postage thereon fully prepaid to:

Carol Webb
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
Springfield, IL 62794


RAYMOND J. CALLERY
Assistant Attorney General

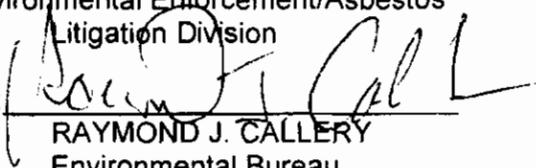
This filing is submitted on recycled paper.

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) (2006).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS
LISA MADIGAN
ATTORNEY GENERAL

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

BY: 

RAYMOND J. CALLERY
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: May 6, 2008

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

MAY 09 2008

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.)
)
BOB D. STAGNER and LINDA S.)
STAGNER, d/b/a LB'S CAMPING and)
MOBILE HOME PARK,)
)
Respondents.)

PCB NO. 06-174
(Enforcement - Water)

STIPULATION AND PROPOSAL FOR SETTLEMENT

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 BOB D. STAGNER and LINDA S. STAGNER, d/b/a LB'S CAMPING and MOBILE HOME PARK ("Respondents"), 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.* (2006), and the Board's Regulations, alleged in the Complaint except as otherwise provided herein. It is the intent of the parties to this Stipulation that it be a final adjudication of this matter.

I. STATEMENT OF FACTS

A. Parties to the Stipulation

1. On May 17, 2006, 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 (2006), 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 (2006).

3. At all times relevant to the Complaint, Bob D. Stagner and Linda S. Stagner were the owners and operators of a facility known as LB's Camping and Mobile Home Park ("LB's Camping") located at 5272 Peach Orchard Road, Sessor, Franklin County, Illinois. The Respondents owned and operated LB's Camping from 1997 until selling the facility in August of 2007.

4. On May 18, 2000, Illinois EPA inspected LB's Camping in response to a complaint and observed that the filters of the wastewater treatment plant ("WTTP") were being bypassed and that septic tank effluent was being discharged directly into the receiving stream. The receiving stream was gray in color and contained floating debris. Upon a re-inspection on October 30, 2001, Illinois EPA also observed a dark gray sewage color, septic odor, foam, and debris at the outfall.

5. At all times relevant hereto, the WTTP at LB's Camping discharged to an unnamed tributary of Andy Creek and to Valier Lake. Andy Creek and Valier Lake fall within

the definition of “waters” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2006).

6. Respondents’ National Pollutant Discharge Elimination System (“NPDES”) Permit imposed effluent concentration limitations for five -day carbonaceous biochemical oxygen demand (“CBOD₅”), total suspended solids (“TSS”), ammonia nitrogen, and fecal coliform, each of which is a “contaminant” as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2006). Discharge Monitoring Reports (“DMRs”) are submitted monthly in accordance with the NPDES Permit to report the concentrations of contaminants in the effluent.

7. Between May 2000 and August 2007, Respondents exceeded the monthly average for CBOD₅ in at least forty-seven months and exceeded the daily maximum for CBOD₅ in at least twenty-nine months. Between May 2000 and August 2007, Respondents exceeded the monthly average for TSS in at least thirty-six months and exceeded the daily maximum for TSS in at least thirteen months. Between May 2000 and August 2007, Respondents exceeded the monthly average for ammonia nitrogen in at least fifty-five months and exceeded the daily maximum for ammonia nitrogen in at least forty-five months. Between May 2000 and August 2007, Respondents exceeded the daily maximum for fecal coliform in at least fifty-six months.

B. Allegations of Non-Compliance

Complainant and the Illinois EPA contend that the Respondents have violated the following provisions of the Act and Board regulations:

Count I: By causing, threatening, or allowing the discharge of contaminants to the waters of the State so as to cause or tend to cause water pollution in Illinois, the Respondents have violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2006), and Sections 302.203,

304.106, 304.120(c) and 306.304 of the Board's Water Pollution Regulations.

Count II: By causing, threatening, or allowing the discharge of contaminants into the waters of the State in violation of the terms and conditions established by the NPDES permit, the Respondents have violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2006), and Sections 304.141(a), 305.102, and 380.202(a) of the Board's Water Pollution Regulations.

C. Admission of Violations

The Respondents admit to the violation(s) alleged in the Complaint filed in this matter and referenced within Section I.B herein.

D. Compliance Activities to Date

At significant cost to the Respondents, efforts were taken to upgrade the WTP at LB's Camping and to bring it into substantial compliance with the Act and the Board Regulations prior to its sale to a third party in August 2007.

II. APPLICABILITY

This Stipulation shall apply to and be binding upon the Complainant, the Illinois EPA and the Respondents, and any officer, director, agent, or employee of the Respondents, as well as any successors or assigns of the Respondents. The Respondents shall not raise as a defense to any enforcement action taken pursuant to this Stipulation the failure of any of their 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 Respondents 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 (2006).

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

Section 33(c) of the Act, 415 ILCS 5/33(c)(2006), 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 this Stipulation state the following:

1. Human health and the environment were threatened and the Illinois EPA's information gathering responsibilities hindered by the Respondents' violations.
2. There is social and economic benefit to the facility.
3. Operation of the facility was suitable for the area in which it occurred.
4. Preventing the discharge of contaminants in excess of the effluent concentration limitations and compliance with the terms and conditions of the NPDES permit were both technically practicable and economically reasonable.

5. Prior to selling the facility Respondents had substantially 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)(2006), 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 this Stipulation state as follows:

1. Respondents' violations were discovered on and after May 18, 2000, and were substantially resolved prior to the sale of the facility in August 2007.
2. Respondents were diligent in attempting to come back into compliance with the Act, Board regulations and applicable federal regulations, once the Illinois EPA notified them of their noncompliance.
3. Respondents realized some economic benefit of non-compliance by delaying the costs necessary to prevent the discharge of contaminants in excess of the effluent concentration limitations and by delaying the costs necessary to comply with the terms and conditions of the NPDES permit.
4. Complainant and the Illinois EPA have determined, based upon the specific facts of this matter, that a penalty of FIVE HUNDRED DOLLARS (\$500.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.
5. To Complainant's and the Illinois EPA's knowledge, Respondents have 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.

V. TERMS OF SETTLEMENT

A. Penalty Payment

1. The Respondents shall pay a civil penalty in the sum of Five Hundred Dollars (\$500.00) within thirty (90) days from the date the Board adopts and accepts this Stipulation.

B. Interest and Default

1. If the Respondents fail to make any payment required by this Stipulation on or before the date upon which the payment is due, the Respondents 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 Respondents 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 Respondents' federal tax identification numbers 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:

Raymond J. Callery
Environmental Bureau

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

D. Release from Liability

In consideration of the Respondents' payment of the \$500.00 penalty and upon the Board's approval of this Stipulation, the Complainant releases, waives and discharges the Respondents 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 May 17, 2006. The Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against the Respondents 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 Respondents' 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 or the Illinois EPA may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315, or entity other than the Respondents.

E. Enforcement

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.

F. Execution of Stipulation

The undersigned representatives for each party to this 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 this Stipulation request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

PEOPLE OF THE STATE OF ILLINOIS,

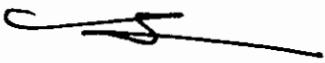
LISA MADIGAN
Attorney General
State of Illinois

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

FOR THE ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

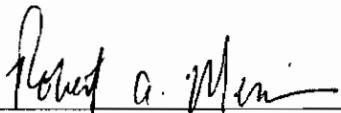
DOUGLAS P. SCOTT, Director
Illinois Environmental Protection Agency

BY:



THOMAS DAVIS, Chief
Environmental Bureau
Assistant Attorney General

BY:



ROBERT A. MESSINA
Chief Legal Counsel

DATE:

3/31/08

DATE:

3/27/08

RESPONDENTS:

BY: Bob D. Stagner DATE: 5-1-08

BY: Linda S. Stagner DATE: 5-1-08