

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 16-
)	(Enforcement - Water)
TERMINAL RAILROAD ASSOCIATION OF)	
ST. LOUIS, a Missouri Corporation,)	
)	
Respondent.)	

NOTICE OF FILING

Brian Clappier, Assistant Attorney General, hereby certifies that he has filed and served a copy of the foregoing Notice of Filing, Complaint, Stipulation and Proposal for Settlement and Motion for Relief from Hearing Requirements upon:

K.T. Paubel
Terminal Railroad Association of St. Louis
1201 McKinley
Venice, IL 62090

by placing a copy of same in the United States Mail in Springfield, Illinois, with postage fully prepaid on December 2, 2015.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS, ex rel.
LISA MADIGAN, Attorney General,
State of Illinois

BY: s/Brian Clappier
Brian Clappier
Assistant Attorney General
500 South Second Street
Springfield, IL 62706
217/782-9031

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
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Complainant,)	
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v.)	PCB NO.
)	(Enforcement – Water)
TERMINAL RAILROAD ASSOCIATION OF)	
ST. LOUIS, a Missouri corporation,)	
)	
Respondent.)	

COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

The PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, complains of the Respondent, TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS, a Missouri corporation, as follows:

COUNT I
FAILURE TO MAINTAIN GROUNDWATER MONITORING WELLS

1. This Complaint is brought by the Attorney General on her own motion, and at the request of the Illinois Environmental Protection Agency (“Illinois EPA”), pursuant to Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2014).

2. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2014), and charged, *inter alia*, with the duty of enforcing the Act.

3. The Illinois Pollution Control Board (“Board”) is an agency of the State of Illinois created by the Illinois General Assembly in Section 5 of the Act, 415 ILCS 5/5 (2014), and charged with the duty of promulgating regulations under the Act, pursuant to Section 26 of the Act, 415 ILCS 5/26 (2014).

4. Respondent, Terminal Railroad Association of St. Louis ("TERMINAL"), is a Missouri corporation which operates a railroad equipment maintenance facility located south of Bend Road in Lovejoy Township approximately 1,000 feet southeast of Brooklyn, St. Clair County, Illinois ("site"). The registered agent for Respondent is CT Corporation System, 208 S. LaSalle St., Suite 814, Chicago, IL 60604.

5. From the mid-1950s to early 1993, Tetrachloroethylene ("PCE") and Trichloroethane ("TCA") solvents were sprayed to clean the grime, oil and grease from locomotives that could not be cleaned with water-based cleaners. The solvents were used to clean engines and parts while the engines and parts were in the three southernmost bays on the west side of the main facility. The waste from the degreased locomotives, including any spilled solvent or solvent that may have sprayed onto the floor was rinsed or otherwise discharged into the adjoining wash pits. The wash pits then conveyed the liquids by sewer to a tributary of the Cahokia Canal. The Cahokia Canal flows into the Mississippi River. In 1982, Respondent modified the configuration by installing an 8,000 gallon railroad tanker unit underground as an in-line oil water separator to eliminate oil from the sewer discharge into the tributary.

6. Respondent pled guilty in Federal Court of discharging pollutants without a permit and failure to report an oil discharge to emergency response authorities.

7. Spent halogenated solvents, PCE and TCA, including still bottoms from the recovery of these spent solvents and spent solvent mixtures, are RCRA regulated wastes and are designated as F002 under 40 C.F.R. Section 261.31(a).

8. On or about October 1994, on a date better known by the Respondent, wastes were removed from the oil water separator ("OWS") and disposed of as F002 hazardous waste.

9. At all times relevant to this Complaint, the Respondent was working toward achieving closure of several hazardous waste management units at the site, as follows: an OWS, three washpits located in the southwest corner of the maintenance building where wastes stored in the separator were generated, the sewer piping connecting the wash pits to the OWS, the drainage ditch connecting to Cahokia Creek, and the Safety Kleen parts washer release area. In order to achieve closure of the foregoing hazardous waste management units, the Respondent conducted a site investigation and remediation pursuant to a series of Closure Plans submitted to Illinois EPA.

10. On July 2, 1996, the Illinois EPA issued its conditional approval of the Phase I Closure Plan for the site. On November 17, 1997, the Illinois EPA issued its conditional approval of the Phase I Closure Report and a Phase II Closure Plan (Log No. C-749-M-3). A soil and groundwater investigation was conducted at the site pursuant to the conditionally approved Phase I Closure Plan and Phase II Closure Plan, which included the installation of monitoring wells MW-1 thru MW-31 and MW-100.

11. On April 10, 2000, Illinois EPA issued its conditional approval of the Phase II Closure Report, and the proposed Phase III and Phase IV Closure Plans (“Log No. C-749-M-4” or “April 10, 2000 approval letter”). Monitoring wells MW-32 thru MW-35 were installed pursuant to the conditionally approved Phase III Closure Plan.

12. On September 8, 2009, the Illinois EPA conducted an inspection of the groundwater monitoring wells at the site. On that date, each well was visually inspected for evidence of damage or deterioration. The surface seals were checked for cracks and voids. The wells did not have protective guard posts to prevent collision with moving equipment. All of the well caps were labeled. No permanent identification of each well was evident on a

nonremovable part of the well. Numerous monitoring wells had cracked seals, erosion of soil underlying the seal, and bent casings.

13. On September 8, 2009, Monitoring Well No. 1 would not lock and the outer casing lid needed a new hinge.

14. On September 8, 2009, the surface seal was pulled away from the outer metal on Monitoring Well No.'s 5 and 20.

15. On September 8, 2009, Monitoring Well No. 7 had a cracked surface seal.

16. On September 8, 2009, Monitoring Well No. 10 had a broken riser pipe.

17. On September 8, 2009, Monitoring Well No. 15 had a cracked surface seal and an outer hinge was broken.

18. On September 8, 2009, the outer casing to Monitoring Well No. 18 was in a damaged condition.

19. On September 8, 2009, the surface seal to Monitoring Well No. 21 was broken in pieces.

20. On September 8, 2009, soil underneath the seals on Monitoring Well Nos. 8, 9, 16, 17, 19, 22, 23, 26, 29 and 32 had been eroded away.

21. On September 8, 2009, Monitoring Well No. 27 had a cracked surface seal and needed a new outer casing.

22. On a date better known by the Respondent, Monitoring Well No. 24 was destroyed.

23. Section 725.115(c) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 725.115(c), provides, as follows:

- c) The owner or operator must remedy any deterioration or malfunction of equipment or structure that the inspection reveals

on a schedule that ensures that the problem does not lead to an environmental or human health hazard. Where a hazard is imminent or has already occurred, remedial action must be taken immediately.

24. Section 21(f) of the Act, 415 ILCS 5/21(f) (2014), provides, in pertinent part, as follows:

No person shall:

* * *

- (f) Conduct any hazardous waste-storage, hazardous waste-treatment or hazardous waste-disposal operation:
 - (1) without a RCRA permit for the site issued by the Agency under subsection (d) of Section 39 of this Act, or in violation of any condition imposed by such permit, including periodic reports and full access to adequate records and the inspection of facilities, as may be necessary to assure compliance with this Act and with regulations and standards adopted thereunder; or
 - (2) in violation of any regulations or standards adopted by the Board under this Act; or

* * *

25. "Treatment" is defined in Section 3.505 of the Act, 415 ILCS 5/3.505 (2014), as follows:

"Treatment" means any method, technique or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any waste so as to neutralize it or render it nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous.

26. The monitoring wells at the site were installed pursuant to Closure Plans conditionally approved by Illinois EPA and are part of a hazardous waste-treatment operation.

27. By failing to remedy deteriorating components of multiple monitoring wells, the Respondent violated Section 725.115(c) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 725.115(c), and Section 21(f) of the Act, 415 ILCS 5/21(f) (2014).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent, TERMINAL:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that the Respondent has violated the Act as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2014), imposing a civil penalty of not more than the statutory maximum; and,
- E. Granting such other relief as the Board may deem appropriate.

COUNT II
FAILURE TO SUBMIT REQUIRED WORKPLAN

1-14. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 11 and 24 through 26 of Count I as paragraphs 1 through 14 of this Count II.

15. On January 2, 2002 the Illinois EPA issued its conditional approval of the Phase III Closure Report, Phase IV Closure Plan, and Phase V Closure Plan (“Log. No. C749-M-7” or “January 2, 2002 approval letter.”)

16. The Respondent did not appeal any of the terms or conditions of the January 2, 2002 approval letter.

17. The Respondent failed to submit a Workplan to address groundwater contamination in the vicinity of the OWS (“Workplan”) to Illinois EPA within 60 days of Illinois EPA’s January 2, 2002 approval letter.

18. Condition 17 of the January 2, 2002 approval letter, provides as follows:

Within 60 days of the date of this letter, the facility will be required to submit for the Illinois EPA's review and approval, to the address in Condition 21 below, a Workplan to address groundwater contamination in the vicinity of the OWS. The Workplan must address the following:

- a. The requirements described in this letter for the option selected and must also demonstrate compliance with the regulations applicable to the option being used;
- b. Any request for institutional controls restricting groundwater usage in the vicinity of the site should provide the information requested by 35 Ill. Adm. Code 742, Subpart J. (Attachment 4 identifies information required for review of a request for approval of a local ordinance as an institutional control.) In addition, this request must contain information demonstrating the requirements of 35 Ill. Adm. Code 742.320 or 742.925 will be met; and
- c. Any proposal for the elimination of the groundwater ingestion route or for Tier 2 groundwater remediation objectives must contain detailed information in support of any calculations made. This includes providing:
 - (1) The actual calculations made;
 - (2) Identification of all input values for the calculation; and
 - (3) Documentation supporting the input values used in conducting the calculations. All physical parameters used in making the calculations must be site specific.

19. Section 725.213(b) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 725.213(b) provides, as follows:

The owner or operator must complete partial and final closure activities in accordance with the approved closure plan....

* * *

20. By failing to submit a Workplan in accordance with Condition 17 January 2, 2002 approval letter, Respondent violated Section 725.213 (b) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 725.213(b), and Section 21(f) of the Act, 415 ILCS 5/21(f) (2014).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent, TERMINAL:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that the Respondent has violated the Act as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2014), imposing a civil penalty of not more than the statutory maximum; and,
- E. Granting such other relief as the Board may deem appropriate.

COUNT III
FAILURE TO SAMPLE AND ANALYZE GROUNDWATER

1-20. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 20 of Count II as paragraphs 1 through 20 of this Count III.

21. On or about September 8, 2009, Illinois EPA reviewed Respondent's quarterly groundwater monitoring data reports. The quarterly data revealed that samples had not been collected and analyzed from several monitoring wells on multiple occasions.

22. Respondent failed to obtain groundwater samples for May 2009 for the following wells: MW-04, MW-10, MW-18, MW-20, MW-21, and MW-22.

23. Respondent failed to obtain groundwater samples for March 2009 for the following wells: MW-04, MW-10, MW-18, MW-20, MW-21, and MW-22.

24. Respondent failed to obtain groundwater samples for November 2008 for the following wells: MW-04, MW-10, MW-18, MW-20, MW-21, and MW-22.

25. Respondent failed to obtain groundwater samples for September 2008 for the following wells: MW-04, MW-10, and, MW-18.

26. Respondent failed to obtain groundwater samples for June 2008 for the following wells: MW-04, MW-10, and, MW-18.

27. Respondent failed to obtain groundwater samples for March 2008 for the following wells: MW-02, MW-04, MW-10, MW-18, MW-20, MW-21, and MW-22.

28. Respondent failed to obtain groundwater samples for December 2007 for the following wells: MW-01, MW-02, MW-10, MW-16, MW-17, MW-18, MW-19, MW-20, MW-21, MW-22, MW-25, MW-27, MW-28, and MW-32.

29. Respondent failed to obtain groundwater samples for September 2007 for the following wells: MW-02, MW-04, MW-10, MW-16, MW-17, MW-18, MW-19, MW-20, MW-21, and MW-22.

30. Respondent failed to obtain groundwater samples for June 2007 for the following wells: MW-10, MW-18, MW-20, MW-21, and MW-22.

31. Respondent failed to obtain groundwater samples for March 2007 for the following wells: MW-10, MW-18, MW-20, MW-21, and MW-22.

32. Respondent failed to obtain groundwater samples for December 2006 for the following wells: MW-02, MW-04, MW-07, MW-08, MW-10, MW-16, MW-17, MW-18, MW-19, MW-20, MW-21, MW-22, MW-23, MW-25, MW-31, and MW-34.

33. Respondent failed to obtain groundwater samples for August 2006 for the following wells: MW-03, MW-04, MW-07a, MW-08, MW-10, MW-16, MW-17, MW-18, MW-19, MW-20, MW-21, MW-22, MW-23, MW-25, MW-28, MW-32, and MW-34.

34. Respondent failed to obtain groundwater samples for March 2006 for the following wells: MW-02, MW-04, MW-16, MW-17, MW-18, MW-19, MW-20, MW-21, MW-22, MW-25, and MW-34.

35. Respondent failed to obtain groundwater samples for January 2006 for the following wells: MW-02, MW-04, MW-16, MW-17, MW-18, MW-19, MW-20, MW-21, MW-22, MW-25, and MW-34.

36. Condition 18 of the January 2, 2002 approval letter, provides as follows:

The facility must continue to conduct sampling and analysis of groundwater in accordance with Condition 14 of the Illinois EPA's April 10, 2000 letter (Log. No. C-749-M-4) unless otherwise stated herein.

37. Condition 14 of the Illinois EPA's April 10, 2000 approval letter provides, as follows:

The facility shall continue to monitor the groundwater present at the site for Volatile Organic Compounds (VOC) and Semi-Volatile Organic Compounds (SVOC) parameters as well as the eight RCRA metals (arsenic, barium, cadmium, chromium, lead, mercury, selenium and silver) until the extent of contamination has been determined. Monitoring wells MW-1 through MW-31, MW-100 and the four (4) new wells, upon their completion, shall be sampled and analyzed for VOCs, SVOCs, and RCRA metals. Subsequent monitoring and evaluation reporting activities shall be conducted pursuant to the following schedule:

<u>Sampling Quarter</u>	<u>Samples Collected During the Months of:</u>	<u>Reports Due to the Illinois EPA by:</u>
1 st	January-February	April 15
2 nd	April-May	July 15
3 rd	July-August	October 15
4 th	October-November	January 15

38. By failing to conduct sampling and analysis of groundwater at multiple wells in accordance with Condition 14 of the April 10, 2000 approval letter and Condition 18 of the January 2, 2002 approval letter, the Respondent violated Section 725.213(b) of the Board's

Waste Disposal Regulations, 35 Ill. Adm. Code 725.213(b), and Section 21(f) of the Act, 415 ILCS 5/21(f) (2014).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent, TERMINAL:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that the Respondent has violated the Act as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2014), imposing a civil penalty of not more than the statutory maximum; and,
- E. Granting such other relief as the Board may deem appropriate.

COUNT IV
FAILURE TO MAINTAIN FINANCIAL ASSURANCE

1-14. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 11 and 24 through 26 of Count I as paragraphs 1 through 14 of this Count IV.

15. As of the date of Illinois EPA's Violation Notice, November 25, 2009, Respondent had not supplied financial assurance in the amount of \$25,000.

16. Condition 9 of Respondent's Remedial Action Plan Permit No. B-171, dated May 21, 2007, provides, as follows:

The current cost estimate for closure of the CAMU and the treated waste storage area is \$25,000. Pursuant to 35 Ill. Adm. Code 724.251, the Permittee shall maintain financial assurance for the amount of the approved closure cost estimate (\$25,000), and the applicable liability requirements.

17. Section 702.141 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 702.141, provides, as follows:

The permittee must comply with all conditions of its permit. Any permit noncompliance constitutes a violation of the Illinois Environmental Protection Act and is grounds for one or more of the following actions: for an enforcement action, for permit revocation or modification, or for denial of a permit renewal application.

18. Section 724.243 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 724.243, provides, in pertinent part, as follows:

An owner or operator of each facility must establish financial assurance for closure of the facility.

19. By not maintaining financial assurance for the amount of the approved closure cost estimate, Respondent violated Condition 9 of Remedial Action Plan Permit No. B-171, dated May 21, 2007, and Section 724.243 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 724.243.

20. By violating a condition of the Remedial Action Plan Permit No. B-171, Respondent violated Section 702.141 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 702.141, and Section 21(f) of the Act, 415 ILCS 5/21(f) (2014).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent, TERMINAL:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that the Respondent has violated the Act as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act;

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2014), imposing a civil penalty of not more than the statutory maximum; and,

E. Granting such other relief as the Board may deem appropriate.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
ex rel. LISA MADIGAN,
Attorney General
of the State of Illinois

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

BY: 
ANDREW ARMSTRONG, Chief
Environmental Bureau/Springfield
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217/782-9034

Dated: 12/02/2015

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
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Complainant,)	
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v.)	PCB NO.
)	(Enforcement - Land)
TERMINAL RAILROAD ASSOCIATION)	
OF ST. LOUIS, a Missouri corporation,)	
)	
Respondent.)	

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 TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS ("Respondent") ("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.* (2014), 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. Simultaneous with the filing of this Stipulation, 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 (2014), against the Respondent, and Respondent filed an Answer denying the allegations set forth in the Complaint.

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 (2014).

3. Respondent is a Missouri corporation which formerly operated a railroad equipment maintenance facility (Brooklyn Shops) located south of Bend Road in Lovejoy Township approximately 1,000 feet southeast of Brooklyn, St. Clair County, Illinois ("site"). The registered agent for Respondent is CT Corporation System, 208 So. LaSalle St., Suite 814, Chicago, IL 60604.

4. At times relevant to this Complaint, the Respondent was working toward achieving closure of several alleged hazardous waste management units associated with historical activities at the site, as follows: an oil water separator ("OWS"), three washpits located in the southwest corner of the maintenance building where wastes stored in the separator were generated, the sewer piping connecting the washpits to the OWS, the drainage ditch connecting to Cahokia Creek, and the Safety Kleen parts washer release area. In order to achieve closure of the foregoing alleged hazardous waste management units, the Respondent conducted a site investigation and remediation pursuant to a series of Closure Plans submitted to the Illinois EPA.

5. On September 8, 2009, the Illinois EPA conducted an inspection of the site. On that date, multiple monitoring wells were in need of repair or replacement, and groundwater monitoring reports, which had been previously submitted by Respondent to the Illinois EPA on a quarterly basis, for periods between 2006 and 2009 indicated that samples were not obtained for several wells on multiple quarters because some of the monitoring wells were or had been dry. In addition, a review of Respondent's records revealed that the groundwater workplan required by

the January 2, 2002 letter (Log No. C-7249) was not submitted, and financial assurance in the amount of \$25,000 had not been supplied.

B. Allegations of Non-Compliance

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

COUNT I: Failure to Maintain Groundwater Monitoring Wells

By failing to remedy deteriorating components of multiple monitoring wells, the Respondent violated Section 725.115(c) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 725.115(c), and Section 21(f) of the Act, 415 ILCS 5/21(f).

COUNT II: Failure to Submit Required Workplan

By failing to submit a Workplan pursuant to Condition 17 of the RCRA Phase III Closure Report, Phase IV Closure Plan, Phase V Closure Plan, and Remedial Action Plan letter dated January 2, 2002, the Respondent violated Section 725.213(b) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 725.213(b), and Section 21(f) of the Act, 415 ILCS 5/21(f).

COUNT III: Failure to Sample and Analyze Groundwater

By failing to conduct sampling and analysis of groundwater at multiple wells according to Condition 14 of the Illinois EPA's April 10, 2000 letter (Log. No. C-749-M-4) and Condition 18 of the RCRA Phase III Closure Report, Phase IV Closure Plan, Phase V Closure Plan, and Remedial Action Plan letter dated January 2, 2002, the Respondent violated Section 725.213(b) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 725.213(b), and Section 21(f) of the Act, 415 ILCS 5/21(f).

COUNT IV: Failure to Maintain Financial Assurance

By not maintaining financial assurance for the amount of the approved closure cost estimate, Respondent violated Condition 9 of Remedial Action Plan Permit No. B-171, dated May 21, 2007, and Section 724.243 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 724.243.

By violating a condition of the Remedial Action Plan Permit No. B-171, Respondent violated Section 702.141 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 702.141, and Section 21(f) of the Act, 415 ILCS 5/21(f).

C. Non-Admission of Violations

Respondent denies the violations alleged (and other allegations) in the Complaint and in this Stipulation. Respondent further denies that the Brooklyn Shops site is or ever was a treatment, storage or disposal facility within the meaning of the Federal Resource Conservation and Recovery Act, 42 USC, 6921 *et seq.* (RCRA) or its Illinois state law counterpart. Without limiting the generality of the foregoing, Respondent specifically contests that it has violated RCRA or 415 ILCS 5/21(f) or that it is subject to 35 Ill. Adm. Code 725. If this Stipulation is used against Respondent in any future action or proceeding as evidence or alleged proof of a past violation (or the adjudication thereof), Respondent may contest the validity of such alleged violations or use. Respondent enters into this Stipulation to resolve disputed claims. This Stipulation shall not be interpreted as an adjudication of any violation or an admission of liability.

D. Compliance Activities to Date

During the months of January and February 2010, Respondent performed maintenance on their monitoring wells and replaced some monitoring wells. Maintenance activities included removing and replacing concrete pads where wells were damaged by "frost-heave," repairing damaged protective casings to ensure well heads could be securely locked, replacing missing or nonoperational locks, and repairing the protective casing with sheet metal on wells where the casing had no structural damage. In addition, Respondent permanently sealed monitoring wells MW-4, 10, 18, 20, 21, 22 and 24 and installed MW-4A, 18A, 20A, 21A, and 22A. (Monitoring wells MW-10 and MW-24 were considered redundant and not replaced.) On April 2, 2010, Respondent submitted a work plan regarding the impacted groundwater near the former Oil

Water Separator at the site. Respondent has updated their financial assurance for the CAMU which has since been certified closed.

II. APPLICABILITY

This Stipulation shall apply to and be binding upon the Parties to the Stipulation. The 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 the Respondent in any subsequent enforcement action or permit proceeding as evidence 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 (2014).

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

Section 33(c) of the Act, 415 ILCS 5/33(c) (2014), 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 alleges the following:

1. Human health and the environment were threatened and the Illinois EPA's information gathering responsibilities hindered by the Respondent's violations.
2. There is social and economic benefit to the site.
3. Operation of the site was suitable for the area in which it occurred.
4. Completing and submitting a work plan, maintaining monitoring wells, and maintaining financial assurance is 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) (2014), 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, Complainant alleges as follows:

1. Between 2006 and 2009, the Respondent failed to: a) conduct maintenance on multiple monitoring wells, b) obtain samples or replace monitoring wells on multiple occasions due to dry conditions, and c) timely submit a groundwater work plan. Respondent failed to maintain financial assurance.

2. With respect to Counts I, II, and III, Respondent was diligent in attempting to come back into compliance with the Act, Board Regulations and applicable federal regulations, once the Illinois EPA notified it of its noncompliance. Maintenance activities on the monitoring wells and monitoring well replacements were conducted within approximately 90 days of the notice of violation issued by the Illinois EPA; and, the groundwater workplan was submitted on April 2, 2010.

3. The economic benefit Respondent received as a result of noncompliance was nominal.

4. Complainant has determined, based upon the specific facts of this matter, that a penalty of Forty-Seven Thousand (\$47,000.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board Regulations.

5. On or about 1997, Respondent pled guilty in federal court to two counts,

discharge of pollutants without a permit and failure to report an oil discharge. U.S. District Court, Southern District of Illinois, East St. Louis, Case No. 3:97CR 30061.

6. Respondent reports, and all times relevant hereto has reported, its groundwater monitoring results on a quarterly basis, including, without limitation, whether any monitoring wells had insufficient amounts of water to obtain a sample.

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

8. Respondent submitted a Compliance Commitment Agreement on December 31, 2009, which was rejected by the Illinois EPA on January 20, 2010, although the Illinois EPA encouraged Respondent to perform the activities and Respondent did perform the activities suggested in the proposed Compliance Commitment Agreement.

V. TERMS OF SETTLEMENT

A. Penalty Payment

1. The Respondent shall pay a civil penalty in the sum of Forty-Seven Thousand (\$47,000.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

B. Interest and Default

1. If the Respondent fails to make any payment required by this Stipulation on or before the date upon which the payment is due, the 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 the 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

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 Respondent's federal tax identification number 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:

Brian Clappier
Environmental Bureau
Illinois Attorney General's Office
500 South Second Street
Springfield, Illinois 62706

D. Future Compliance

1. Respondent is required to provide financial assurance for the three wash pits located in the southwest corner of the maintenance building, the sewer piping connection to Cahokia Creek, and the Safety Kleen parts washer release area.

To provide financial assurance, Respondent must complete the following:

- a. Within 30 days of the entry of this Stipulation, Respondent shall have a detailed written cost estimate for closure pursuant to Section 725.242 of the Board's

Regulations, 35 Ill. Admin. Code 725.242 and submit it to the Illinois EPA for approval;

- b. Respondent shall keep a written operating record at its principle corporate headquarters, which will constitute compliance with Section 725.173 of the Board's Regulations, 35 Ill. Admin. Code 725.173 that includes the closure cost estimate required under Section 725.242;
- c. Respondent must prepare and submit a single copy of an annual report to the Agency including the most recent closure cost estimate pursuant to Section 725.175(g) of the Board's Regulations, 35 Ill. Admin. Code 725.175(g), by March 1st of each year beginning in 2016;
- d. Respondent shall provide financial assurance for closure pursuant to Section 725.243 of the Board's Regulations, 35 Ill. Admin. Code 725.243, provided, however, that if Respondent elects to demonstrate financial assurance pursuant to Section 725.243(e) of the Board's Regulations, 35 Ill. Admin. Code 725.243(e), and Respondent provides the necessary items on or prior to July 31 of each calendar year until final closure is certified, Respondent shall be in compliance with this Stipulation and no enforcement action shall be taken against it; and
- e. Respondent must update the closure cost estimate for inflation yearly in compliance with Section 725.242(b) of the Board's Regulations, 35 Ill. Admin. Code 725.242(b).

2. In addition to any other authorities, the Illinois EPA, its employees and representatives, and the Attorney General, her employees and representatives, shall have the right of entry into and upon the 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, the Illinois EPA, its employees and representatives, and the Attorney General, her employees and representatives, may take photographs, samples, and collect information, as they deem necessary.

3. This Stipulation in no way affects the responsibilities of the Respondent to comply with any other federal, state or local laws or regulations, including but not limited to the Act and the Board Regulations.

4. The Respondent shall comply with the provisions of the Act and Board Regulations that were the subject matter of the Complaint.

E. Release from Liability

In consideration of the Respondent's payment of the \$47,000.00 penalty, its commitment to comply as contained in Section V.D. above, completion of all activities required hereunder, and upon the Board's approval of this Stipulation, the Complainant releases, waives and discharges the Respondent from any further liability or penalties for the alleged violations of the Act and Board Regulations that were the subject matter of the Complaint herein and related to the financial assurance of the three washpits located in the southwest corner of the maintenance building, the sewer piping connection to Cahokia Creek, and the Safety Kleen parts washer release area. The above release from liability is also with respect to all the alleged violations in the Stipulation, the Complaint and those of which the State of Illinois is aware, as indicated in Violation Notice L-2009-01387, the Illinois EPA's Inspection Report regarding the Site that was completed on July 21, 2015, and in the July 28, 2015 letter conveying that report to Respondent. The Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against the 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 the 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 the Respondent.

F. Enforcement and Modification 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.

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

LISA MADIGAN
Attorney General
State of Illinois

LISA BONNETT, Director
Illinois Environmental Protection Agency

BY: Andrew Armstrong
ANDREW ARMSTRONG, Chief
Environmental Bureau South
Assistant Attorney General

BY: [Signature]
JOHN J. KIM
Chief Legal Counsel

DATE: 12/01/2015

DATE: 11/30/15

TERMINAL RAILROAD
ASSOCIATION
OF ST. LOUIS

BY: K.T. Paulbel
Name: K.T. Paulbel
Title: CFO

DATE: 10/19/15

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF)	
ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB NO.
)	(Enforcement - Water)
TERMINAL RAILROAD)	
ASSOCIATION OF ST. LOUIS,)	
a Missouri corporation,)	
)	
Respondent.)	

MOTION FOR RELIEF FROM HEARING REQUIREMENT

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and requests relief from the requirement of a hearing in this matter. In support thereof, the Complainant states as follows:

1. Along with this Motion, Complainant filed on December 2, 2015 the initial Complaint in this matter and a Stipulation and Proposal for Settlement executed between Complainant and Respondent, Terminal Railroad Association of St. Louis.

2. Section 31 of the Act, 415 ILCS 5/31 (2014), provides, in pertinent part, as follows:

* * *

(c)(2) 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). Unless the Board, in its discretion, concludes that a hearing will be held, the Board shall cause notice of the stipulation, proposal and request for relief to be published and sent in the same manner as is required for hearing pursuant to subdivision (1) of this subsection. The notice shall include a statement that any person may file a written demand for hearing within 21 days after receiving the notice. If any person files a timely written demand for

hearing, the Board shall deny the request for relief from a hearing and shall hold a hearing in accordance with the provisions of subdivision (1).

* * *

3. No hearing is scheduled in this matter.
4. The Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby requests relief from the requirement of a hearing pursuant to 415 ILCS 5/31(c)(2) (2014).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS
LISA MADIGAN
ATTORNEY GENERAL

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

BY: 
BRIAN CLAPPIER
Environmental Bureau, Springfield
Assistant Attorney General

Dated: December 2, 2015