

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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JUN 04 2004

STATE OF ILLINOIS  
Pollution Control Board

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Complainant, )  
 )  
v. )  
 )  
ROGER RAY, )  
 )  
Respondent. )

AC 04-08

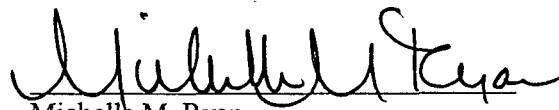
(IEPA No. 392-03-AC)

NOTICE OF FILING

To: Mark S. Morthland  
Morthland, Morthland & Rau, P.C.  
227 South Water Street  
Decatur, Illinois 62523

PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois the following instrument(s) entitled STIPULATION OF SETTLEMENT AND DISMISSAL OF RESPONDENT'S PETITION FOR ADMNISTRATIVE REVIEW.

Respectfully submitted,



Michelle M. Ryan  
Special Assistant Attorney General

Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
(217) 782-5544

Dated: June 3, 2004

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STATE OF ILLINOIS  
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STIPULATION OF SETTLEMENT AND DISMISSAL  
OF RESPONDENT'S PETITION FOR ADMINISTRATIVE REVIEW

NOW COMES the Complainant, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY ("Illinois EPA"), by and through its attorney, Michelle M. Ryan, and the Respondent, ROGER RAY ("Respondent"), by and through his attorney, Mark S. Morthland, and pursuant to Sections 31.1 and 42(b)(4-5) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31.1 and 42(b)(4-5) (2002), and Section 103.180 of the Illinois Pollution Control Board's ("Board") Rules and Regulations, 35 Ill. Adm. Code 103.180, the parties hereby enter into this STIPULATION OF SETTLEMENT AND DISMISSAL OF RESPONDENT'S PETITION FOR ADMINISTRATIVE REVIEW ("Agreement"), and in support hereof, the parties respectfully state as follows:

1. On July 8, 2003, Deanna Carlock, an Environmental Protection Specialist for the Illinois EPA's Champaign Regional Office, conducted an inspection of a facility owned and operated by the Respondent. The facility is located on the southeast side of the intersection

between the railroad tracks and 750 East in Kirksville, Moultrie County, Illinois, and is designated with Illinois EPA Site Code No. 1398065001.

2. On or about September 4, 2003, the Illinois EPA served the Respondent with Administrative Citation No. 392-03-AC, alleging therein that the Respondent had caused or allowed open dumping at his facility on July 8, 2003, in a manner which resulted in the following occurrences: (1) litter, a violation of 415 ILCS 5/21(p)(1) (2000); (2) open burning, a violation of 415 ILCS 5/21(p)(3); and (3) deposition of general and/or clean construction or demolition debris, a violation of 415 ILCS 5/21(p)(7).

3. On or about September 29, 2003, the Respondent filed a Petition for Review contesting the administrative citation.

4. In an effort to resolve this matter without the need for a hearing, the parties have engaged in settlement negotiations and have reached this Agreement and hereby tender it to the Board for approval, the terms and conditions of which are as follows:

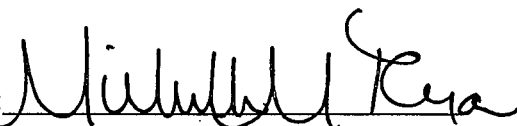
- a. Respondent admits that he caused or allowed open dumping resulting in litter and open burning, a violation of 415 ILCS 5/21(p)(1) and (p)(3) (2002), and agrees to pay the statutory civil penalty of \$3,000.00 pursuant to 415 ILCS 5/42(b)(4-5) (2002).
- b. Respondent agrees to pay the statutory civil penalty in ten monthly installments of \$250.00, commencing on July 1, 2004, and continuing the first of each month thereafter until paid.
- c. Respondent agrees to diligently comply with, and shall cease and desist from further violation of the Act, 415 ILCS 5/1 *et*

seq. (2002), and the Board's rules and regulations, 35 Ill. Adm. Code Subtitles A through H.

- d. The waste located at the site that was the subject of this administrative citation has been removed and properly disposed of.
- e. The Illinois EPA agrees not to refer the violations that are the subject of this administrative citation to the Office of the Illinois Attorney General or any other prosecuting authority for the initiation of a criminal or civil enforcement action.
- f. Respondent's Petition for Review filed with the Board on or about September 29, 2003, shall be dismissed.

WHEREFORE, the parties request that the Board accept this Agreement and issue an order consistent with its terms and conditions.

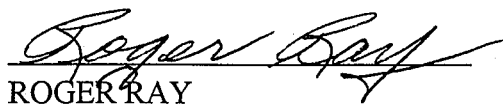
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, Complainant,

BY:   
Michelle M. Ryan  
Special Assistant Attorney General  
1021 North Grand Avenue East  
Springfield, IL 62702-4059  
(217) 782-5544

DATE: 6/2/04

-AND-

Respondent,

  
ROGER RAY

DATE: 05-6-04

**PROOF OF SERVICE**

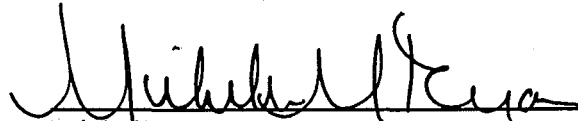
I hereby certify that I did on the 3<sup>rd</sup> day of June, 2004, send by U.S. Mail with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instrument(s) entitled STIPULATION OF SETTLEMENT AND DISMISSAL OF RESPONDENT'S PETITION FOR ADMINISTRATIVE REVIEW

To: Mark S. Morthland  
Morthland, Morthland & Rau, P.C.  
227 South Water Street  
Decatur, Illinois 62523

Carol Sudman  
Hearing Officer  
Illinois Pollution Control Board  
1021 North Grand Avenue East  
P.O. Box 19274  
Springfield, Illinois 62794-9274

and the original and nine (9) true and correct copies of the same foregoing instruments on the same date by U.S. Mail with postage thereon fully prepaid

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



Michelle M. Ryan  
Special Assistant Attorney General

Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
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