

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD  
MADISON COUNTY, ILLINOIS

RECEIVED  
CLERK'S OFFICE  
NOV 22 1996  
STATE OF ILLINOIS  
POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, )  
 )  
 Complainant, )  
 )  
 vs. ) PCB No. 95-163  
 )  
 CLARK REFINING & MARKETING )  
 CORPORATION, )  
 )  
 Respondent. )

PARTIAL STIPULATION AND PROPOSAL FOR SETTLEMENT

Pursuant to 35 Ill. Adm. Code 103.180 (1992), the following Partial Stipulation and Proposal for Settlement entered into between the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by JAMES E. RYAN, Attorney General of the State of Illinois, on behalf of the Illinois Environmental Protection Agency ("Illinois EPA"), and the Respondent CLARK REFINING & MARKETING, INC., ("Clark") is tendered for approval by the Illinois Pollution Control Board ("Board") in order to resolve Counts I-III and VI-XIII of the Amended Complaint. Counts IV and V will be resolved in a contested proceeding. It is expressly understood and agreed to by and between Clark, James E. Ryan, Attorney General of the State of Illinois ("Attorney General"), and the Illinois EPA that the agreements, stipulations, and statements contained herein shall not be binding on the parties, and shall be deemed null and void, if not approved by the Board, or if additional terms or conditions are imposed by the Board which are

rejected by either of the parties. This Partial Stipulation and Proposal for Settlement is made solely for the purpose of settling and putting an end to the litigation of the matters addressed herein, and neither the fact that a party has entered into this Partial Stipulation and Proposal for Settlement, nor any of the facts stipulated herein, shall be introduced into evidence or construed as an admission in any other proceedings conducted before the Board or outside of the jurisdiction of the Board except to enforce the terms hereof by the parties to this agreement. Subject to the foregoing understanding and agreement, it is further agreed as follows:

**I. STIPULATION OF FACTS**

1. Clark is a Delaware corporation.
2. Clark operates a refinery in Hartford, Madison County, Illinois.
3. At its refinery Clark converts crude oil into gasoline and other petroleum distillates.

**Air Issues**

4. At its refinery, Clark operates three units referred to as the Naphtha Hydrotreater, the Hydrogen Plant, and the Isomerization Unit. Clark has been issued Air Pollution Operating Permits for those units by the Illinois EPA.
5. Each permit contained the following Special Condition:
  - 4.a. The permittee shall fulfill applicable notification, record keeping and reporting requirements

of the NSPS, 40 C.F.R. 60.7 and 60.592(e) (refer to 60.486 and 60.487).

6. Pursuant to that permit condition and the regulations incorporated by reference therein, Clark was required to submit a semi-annual report (containing the information described in 40 C.F.R. 60.487(c)) for the period of June 1, 1993 to November 30, 1993. Clark submitted the report on March 10, 1994.

7. Pursuant to 35 Ill. Adm. Code 219.449 (1993) Clark was required to provide the Illinois EPA with a leaking components inspection report by September 1, 1993. Clark performed the leaking components inspection prior to September 1, 1993; however, the report was not submitted to the Illinois EPA until March 10, 1994.

#### RCRA Issues

8. During the period of January 1, 1989 to May 1994, Clark pumped a mixture of API separator sludge and DAF Float to a tank, referred to as Tank 4. During the period of May 1994 to November, 1995, Clark pumped DAF Float to Tank 4. From Tank 4 this material was transferred by vacuum truck to a second tank (T1-18). From T1-18 the sludge was piped to the quenching phase of Clark's coke production process.

9. As a part of its storm water management system, Clark utilizes ditches and an on-site retention basin (known as the Guard Basin) to manage excess storm water flows at the refinery. If the Guard Basin received primary or secondary oil/water/solids separation sludge after May 2, 1991 as a result of "dry weather"

flows, such flows may have resulted in the deposition of F037 or F038 listed hazardous waste. However, there is no evidence that the Guard Basin and associated storm water drainage system received such flows or deposition. Pursuant to an agreement entered with the Illinois EPA, Clark emptied and cleaned-out the Guard Basin in 1994 under the Illinois EPA's voluntary clean-up program, previously known as the "Illinois Pre-Notice Site Clean-Up Program" and now known as the "Site Remediation Program." Clark is continuing to monitor soil and groundwater in the area of the Guard Basin under that program to determine compliance with clean-up objectives.

10. Clark did not maintain a written record of its hazardous waste determination for 13 drums of soil cuttings from the installation of the Guard Basin monitoring wells. Clark does maintain manifests demonstrating proper disposal of these cuttings.

11. On one occasion, Clark did not record the date of the transporter's acceptance on manifest INA0624516 at the time of delivery of the waste.

12. On one occasion, Clark did not retain a copy of its land disposal restriction notification given to the disposal facility for lab packs.

#### Spill Issues

13. During the period of December 6, 1991 to May 1, 1995, there were a number of incidents involving spills or releases of materials at Clark facilities and three incidents where an oil

sheen was observed on the Mississippi River in the vicinity of Clark facilities.

14. On December 6, 1991, approximately 30 gallons of asphalt spilled from the asphalt pipeline between the refinery and Clark's River Dock (Incident No. 913533). On March 11, 1994, approximately 142,000 gallons spilled from the asphalt pipeline (Incident No. 940515). On April 19, 1994, 420 gallons spilled from the pipeline (Incident No. 940851).

15. Clark uses sulfuric acid on its cooling tower system at the refinery. On May 6, 1993, 2,000 gallons of sulfuric acid spilled from an injection line in the cooling tower system (Incident No. 931160).

16. On May 23, 1994 (Incident No. 4DBB) and May 31, 1994 (Incident No. 4DBC) a petroleum sheen was observed on the Mississippi near Clark's River Dock. On July 2, 1994, two barrels of high sulfur fuel oil spilled into the Mississippi near Clark's River Dock (Incident No. 941478). On March 2, 1995, 20 gallons of gasoline spilled into the river from the River Dock. (Incident No. 950356).

17. On July 9, 1994, 13,000 gallons of naphtha spilled from a tank at the refinery (Incident No. 941526).

18. On August 1, 1994, 200 gallons of gasoline spilled from a tank at Clark's terminal (Incident No. 941701).

19. On August 9, 1994, 84,000 gallons of gasoline spilled from a gasoline mixing tank at the refinery (Incident No. 941772).

20. On August 18, 1994, 4,200 gallons of crude oil spilled from a pipeline in Clark's tank field (Incident No. 941873).

21. On October 10, 1994, 1,000 gallons of gasoline spilled from a pipeline near tank 200-1 in the refinery complex (Incident No. 942288).

22. On October 28, 1994, 6,000 gallons of No. 2 Stripper oil spilled from a Clark pipeline between the refinery and the River Dock (Incident No. 942432).

23. On August 23, 1994, 3,500 gallons of gas oil spilled from one of Clark's gas oil pipelines (Incident No. 941913). On September 25, 1994, an additional 71,500 gallons of gas oil spilled from one of Clark's gas oil pipelines (Incident No. 942188).

24. On December 16, 1994, 1600 gallons of oil spilled from tank 55-1 (Incident No. 942837).

25. On February 21, 1993, a disc ruptured on Tank 120-2 resulting in the release of 750 barrels of crude oil (Incident No. 930211).

26. On December 20, 1994, 42 gallons of crude oil spilled from a corroded pipeline (Incident No. 942855).

27. On April 11, 1995, two barrels of distillate spilled from a ruptured flexible hose at the River Dock (Incident No. 950726).

28. On May 1, 1995, an oil sheen was observed on the Mississippi River at and downstream of the River Dock (Incident No. 950893).

29. On June 7, 1995, 350 barrels spilled from Tank 200-1 when a valve was left open (Incident No. 951217).

30. After discovering or being notified thereof, Clark reported each of the above referenced incidents to the Illinois EPA and the Illinois Emergency Services and Disaster Agency and took response actions, including containment, product removal, sampling, excavation, and/or bioremediation after each spill.

#### NPDES Issues

31. During the period of March 1992 to November 1, 1995, effluent from Clark's wastewater treatment plant repeatedly exceeded daily maximum and monthly average limits set forth in its NPDES permit for five-day biochemical oxygen demand ("BOD<sub>5</sub>"), Total Suspended Solids, Total Recoverable Phenolics, Ammonia, Sulfide load, and minimum pH level.

32. Between 1993 and 1994, Clark undertook the following measures to address these excursions:

- a) Repair and maintenance of the sour water stripper;
- b) Installation of two above-ground equalization tanks for the biological wastewater system;
- c) Modifying its process oily water sewers to route noncontaminated storm water to an impoundment;
- d) Minimization of waters being sent to the process oily water sewer system;
- e) Installation of four additional aerators in the reactors;
- f) Aeration of firewater impoundment;

- g) Installation of a new coke maze in the coke containment yard; and
- h) Installation of flow through samplers;

Periodic excursions continued after this work was done.

## II. SUBSECTION 33(c) FACTORS

Subsection 33(c) of the Act, 415 ILCS 5/33(c) (1994)

provides:

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.

### A. Air Reports

1. The delay in submission of the updated leaking components list inhibited the Illinois EPA's monitoring of Clark.



2. The reports in question were submitted promptly after Clark received notice that such reports had not been received and all subsequent reports due to date have been timely filed.

B. RCRA Activities

1. Complainant asserts that under the RCRA regulations Clark "stored" RCRA hazardous wastes in Tank 4 without satisfying the requirements of RCRA creating the possibility that situations could occur that RCRA safeguards were intended to prevent. Clark asserts that under the RCRA regulations Tank 4 was properly classified as a recycling tank which held "recyclable material," not "waste."

2. The parties agree that on one occasion a spill of less than one gallon of material from the tank into the concrete secondary containment area was not cleaned up within 24 hours.

3. The parties agree that Clark has properly closed Tank 4 and that Clark's current handling of materials in new Tank T-171 prior to introduction into the coker comports with RCRA operational standards.

C. Spills

1. Several of the spills referenced in paragraph 13 through 24 of the Stipulation of Facts had impacts on areas outside of the refinery.

2. The spills on Clark's property resulted in temporary surface soil and/or surface water contamination, and in some instances may have contributed to subsurface soil and/or groundwater contamination.

3. As stated in Section I, Clark reported each of the above referenced incidents to the Illinois EPA and the Illinois Emergency Services and Disaster Agency and took response actions, including containment, product removal, sampling, excavation, and/or bioremediation after each spill. To verify compliance with risk-based clean-up objectives, Clark has agreed to perform additional investigation and monitoring at the locations specified in paragraph II.C.4 below. Clark has also agreed to undertake additional remedial work as required to achieve clean up objectives at the locations specified in paragraph II.C.4 below.

4. As will be more fully described below, Clark is completing its remedial investigation and/or remedial activities for the following spill incidents pursuant to sampling and analysis plans and/or work plans approved by the Illinois EPA:

- a) No. 940851 (Asphalt) (Area A)
- b) No. 941772 (Tank 35-2) (Area B)
- c) No. 942837 (Tank 55-1) (Area C)
- d) No. 941526 (Tank 10-5) (Area D)
- e) No. 930211 (Tank 120-2) (Area E)
- f) Nos. 942288, 941873, 942855, and 951217 (Tank 200-1) (Area F)
- g) No. 931160 (Sulfuric Acid spill) (Area G)
- h) Nos. 941913 and 942188 (Hawthorne Ave Releases) (Area H)
- i) No. 942432 (Route 3 Release) (Area J)
- j) No. 940515 (Black Oil River Line) (Area K)

k) Nos. 941701, 950726, 950893 (River Dock Area)  
(Area L)

5. The Illinois EPA has found that no further action is needed at the spill sites associated with the incident numbers 913533, 941478, 942554, 950356, 4DBB and 4DBC because contamination at these sites does not exceed clean up objectives or water quality standards.

6. A number of the spill incidents referenced in Paragraphs 4 and 5 above were the result of deteriorated or defective equipment or pipelines.

7. Other spills were the result of human error.

8. Since its acquisition of the refinery, Clark has undertaken a number of programs to replace and upgrade its pipelines and tank farms and to improve training and maintenance procedures plant wide.

9. It is technically practicable and economically reasonable to reduce the number of spills occurring because of deteriorated or defective equipment and staff errors.

D. NPDES Discharges

1. Clark's discharges of contaminants in excess of permitted levels may have added to the contaminant loading received by the Mississippi River.

2. Clark has undertaken extensive work in an effort to eliminate these excursions.

3. Some of the excursions occurred inadvertently from Clark's efforts to correct an excessive buildup in the biological reactors caused by the prior owner's neglect.

4. As will be described below, Clark is completing a compliance plan to correct the permit excursions.

### III. DETERMINATION OF APPROPRIATE CIVIL PENALTY

Section 42(h) of the Act, 415 ILCS 5/42(h) (1994), provides:

h. In determining the appropriate civil penalty to be imposed under subdivisions (a), (b)(1), (b)(2) and (b)(3) of 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 the 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 in 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.

#### A. Air Reports

1. Clark alleges the semi annual report required under 40 C.F.R. 60.487(a) was not subject to a submission deadline under either the permit or the regulations.

2. The leaking component inspection report required under 35 Ill. Adm. Code 219.449 was filed 157 days late. However, the underlying inspection was performed in a timely manner. The delay in filing the report was unintentional. Clark believed the report had been filed by its consultant. Clark promptly corrected this failure when notified by the Illinois EPA.

3. In the case of People v. Clark Refining and Marketing, PCB 93-250, Clark was charged with failing to conduct leak detection and monitoring meeting the requirements of 40 C.F.R. 60.487. The parties filed a Stipulation and Proposal for Settlement in that matter with the Board on April 1, 1996.

4. Any economic benefit accrued would be minimal.

5. A civil penalty of \$13,000.00 for these violations would serve to deter repetition of these violations by Clark as well as aid in enhancing voluntary compliance with the Act by Clark and other persons similarly subject to the Act.

B. RCRA Activities

1. Clark operated Tank 4 without demonstrating compliance with RCRA operational requirements for a period of at least several years. In 1995, Clark constructed a new tank, T-171, to replace Tank 4. Clark has undertaken to operate T-171 in compliance with all applicable RCRA regulations.

2. Clark undertook clean-up of the Guard Basin voluntarily in 1994. Although Clark continues to believe that soil from the clean-up of the Guard Basin is non-hazardous, Clark agreed to dispose of that soil off-site as a hazardous waste.

3. The other RCRA violations listed in Count IX of the Amended Complaint were corrected immediately.

4. Any economic benefit accrued was minimal.

5. A civil penalty of \$25,000.00 for these violations would serve to deter repetition of these violations by Clark as well as aiding in enhancing voluntary compliance with the Act by Clark and other persons similarly subject to the Act.

C. Spills

1. There were a number of spill or release incidents over the course of four years with quantities ranging from a few gallons to hundreds of thousands of gallons.

2. Two of the spills were discovered by a member of the public.

3. Clark notified the proper agencies and commenced emergency mitigation action within a short time after discovering each spill.

4. As is more fully described below, Clark has agreed to undertake further remedial investigation and, possibly, further soil or groundwater remediation, in order to verify completion of clean-up under Sections 58.5-58.7 of the Act, 415 ILCS 5/58.5-58.7 (1995), using the Illinois EPA's April 8, 1996, proposed 35 Ill. Adm Code Part 742 rules known as "Tiered Approach to Clean-up Objectives" ("TACO"), attached hereto as Appendix A, as guidance, notwithstanding any subsequent version submitted to or approved by the Board, and the procedures specified herein. The

parties may agree to utilize subsequent versions of TACO. Said agreements must be memorialized in writing.

5. Since acquiring the Hartford refinery, Clark has initiated a number of pro-active programs designed to identify and repair, or replace defective pipe throughout the refinery.

6. A civil penalty of \$188,000.00 will serve to deter repetition of these alleged violations by Clark as well as aiding in enhancing voluntary compliance with the Act by Clark and other persons similarly subject to the Act.

D. NPDES Discharges

1. Clark's wastewater treatment plant experienced upset conditions which resulted in exceedances of NPDES permit limitations for the WWTP periodically between March 1992 and the date of this Partial Stipulation and Proposal for Settlement.

2. Clark commenced an extensive program to correct those exceedances in 1993. That program included the measures described in Section 1, par. 27 above. When those measures were found to be only partially effective, Clark took additional steps to correct the problem in 1995 and 1996.

3. Some of that work was necessary to correct neglect of the system by the prior owner.

4. As will be detailed below, Clark has committed to the implementation of additional measures to bring its WWTP discharge into compliance on a continuous basis.

5. A civil penalty of \$65,000.00 will serve to deter repetition of those violations by Clark as well as aiding the

voluntary compliance with the Act by Clark and other persons similarly subject to the Act.

E. Environmental Projects

Clark has implemented the following environmental projects. Clark's has implemented the following environmental projects which the State believes demonstrate Clark's diligence in upgrading its facility for purposes of Section 42(h) of the Act, 415 ILCS 5/42(h) (1994). Clark's implementation of these projects justifies a reduction of \$68,000 in the amount of penalty Clark should pay.

1. Coke Truck Wash

This project was undertaken in 1994 to ensure that coke dust particles are not carried off-site on dirty coke trucks. Clark estimates that dirty trucks previously generated as much as three to five tons per year of fugitive coke fines. Washing the trucks reduces the quantity of coke dust on the trucks by approximately ninety-five percent. Under this project, a truck wash building was constructed in the coke yard which allows the trucks to be spray washed indoors, thus reducing a source of fugitive coke particle emissions. The wash water is directed through the coke maze system which allows the solids to settle out. These solids become a coke product rather than a waste.

2. Filter Press

The new filter press installed at the Hartford Refinery in 1993 allowed Clark to eliminate the disposal of aggressive biological treatment sludges. Previously, this sludge had to be



disposed of at the Peoria Disposal Company hazardous waste disposal facility in Peoria, Illinois, although it was non-hazardous, because of its liquid form. After the installation of the new filter press in November 1993, the non-hazardous solids generated in the filter press in 1994 and 1995 were disposed of as a special waste at a non-hazardous waste landfill. In 1995, the filter press reduced the volume of WWTP waste disposed of off-site by 93%, i.e. 18,000,000 gallons (150,200,000 lbs) of liquid waste was reduced to 9,600,000 lbs of solid waste.

### 3. Dead Leg Removal

During 1995 Clark eliminated 100 feet of pipeline referred to as "dead legs" in the refinery industry. "Dead legs" are portions of pipelines that are no longer used, but are connected to active lines and eventually could leak. The removal of "dead legs", is considered a proactive step to prevent the potential for future pollution.

4. Pursuant to OSHA, Clark has performed "Haz Op" studies within the last five years on the Propane System, Butane System, Amine System, and Hot Oil System at the Hartford Refinery. Within 30 days following Board approval of this Partial Stipulation and Proposal for Settlement, Clark shall submit to the Illinois EPA a list of measures it has implemented or intends to implement pursuant to those studies.

F. Reimbursement of Illinois EPA and Attorney General

Clark has agreed to reimburse the Illinois EPA for its past and future response costs relating to oversight of the cleanup of the Guard Basin and spills described above. Clark has previously paid Five Thousand Dollars (\$5,000.00) toward Illinois EPA's Guard Basin oversight costs and under this Settlement will pay One Thousand Two Hundred and Three (\$1,203.00) for Guard Basin oversight costs incurred through December 31, 1995 and Twelve Thousand Five Hundred and Ninety-Nine Dollars and Sixty-four Cents (\$12,599.64) for spills response costs incurred through March 31, 1996. Response costs incurred after those dates will be billed on a semi-annual basis. Under this Settlement, Clark will also pay Ten Thousand Dollars (\$10,000.00) to the Illinois Hazardous Waste Fund for all Illinois EPA attorneys' fees incurred for oversight in this matter. Clark will also pay Ten Thousand Dollars (\$10,000.00) to the Attorney General's State Projects and Court Ordered Distribution Fund for the sole purpose of funding environmental enforcement activities.

IV. COMPLIANCE WITH OTHER LAWS AND REGULATIONS

This Partial Stipulation and Proposal for Settlement in no way affects the responsibility of Clark to comply with any other federal, state, or local laws or regulations, including, but not limited to, the Act, 415 ILCS 5/1, et seq. (1994), and the Board's Rules and Regulations, 35 Ill. Adm. Code Subtitles A through H, or the interim limits provided herein.

## V. JURISDICTION

The Board has jurisdiction of the subject matter herein and of the parties consenting hereto pursuant to the Act.

## VI. APPLICABILITY

This Partial Stipulation and Proposal for Settlement shall apply to and be binding upon the Attorney General's Office, the Illinois EPA and Clark, its officers, agents, employees, servants, successors and assigns. Clark shall not raise as a defense to any action to enforce this Partial Stipulation and Proposal for Settlement the failure of any of the above to take such action as shall be required to comply with the provisions of this Partial Stipulation and Proposal for Settlement.

## VII. PROPOSAL FOR SETTLEMENT

### A. Civil Penalty

1. Clark shall pay a total settlement penalty of Two Hundred Thirty-Two Thousand and Eight Hundred Dollars (\$232,800.00) (\$10,400.00 for the Late Reports, \$20,000 for the RCRA activities, \$150,400 for the spills, and \$52,000.00 for the NPDES discharges).

2. This penalty shall be paid by corporate or certified check, within thirty (30) days of issuance of the Board Order approving this Partial Stipulation and Proposal for Settlement, made payable to the Treasurer, State of Illinois, for deposit into the Environmental Protection Trust Fund and submitted to:

Illinois Environmental Protection Agency  
Fiscal Services Section  
2200 Churchill Road  
P.O. Box 19276  
Springfield, Illinois 62794-9276

The name, number of the case, and Clark's Federal Employer Identification Number (43-1491230) shall be noted on the check. A copy of the check and transmittal letter shall be sent to:

Donna Lutes  
Environmental Bureau  
Illinois Attorney General's Office  
500 South Second Street  
Springfield, Illinois 62706

For purposes of payment and collection Clark may be reached at the following address:

Mr. Richard A. Keffer, Esq.  
Senior Attorney  
Clark Refining & Marketing, Inc.  
8182 Maryland Avenue  
St. Louis, Missouri 63105

3. In the event that the penalty is not paid in a timely fashion, interest shall accrue and be paid by Clark at the rate set forth in Section 1003(a) of the Illinois Income Tax Act, 35 ILCS 5/1003(a) (1994), pursuant to Section 42(g) of the Act, 415 ILCS 5/42(g) (1994).

B. Additional Payments

1. In addition to the settlement penalty described above, Clark has agreed:

a) To pay the amount of Twelve Thousand Five Hundred and Ninety Nine Dollars and Sixty-Four Cents (\$12,599.64) for all response costs and litigation related costs of the Illinois EPA with regard to the spills identified in Counts VI through XIII of

the Amended Complaint incurred through March 31, 1996.

b) To pay Ten Thousand Dollars (\$10,000.00) for all attorney's fees of the Illinois EPA.

c) To pay One Thousand and Two Hundred Dollars (\$1,200.00) for all of the Illinois EPA's costs for oversight of the Guard Basin cleanup through December 31, 1995.

d) To pay the costs specified in paragraphs (a), (b) and (c) above by corporate or certified checks within thirty (30) days after entry of the Board Order approving this Partial Stipulation and Proposal for Settlement. These checks shall be made payable to the Treasurer of the State of Illinois and sent to:

Illinois Environmental Protection Agency  
Fiscal Services Section  
2200 Churchill Road  
P.O. Box 19726  
Springfield, Illinois 62794-9276

Additionally, the check for the costs specified in paragraph (a) shall be noted for deposit into the Hazardous Waste Fund and designated for emergency response activities. The check for the costs specified in paragraph (b) shall be noted for deposit into the Hazardous Waste Fund and designated for environmental enforcement purposes. The check for the costs specified in paragraph (c) shall be noted for deposit into the Hazardous Waste Fund and designated for the Site Remediation Program.

e) To reimburse the Illinois EPA for all reasonable and documented future response costs (other than attorneys' fees) incurred after March 31, 1996 relating to oversight of Clark's remedial investigation and/or remediation of the spills identified in Counts VI through XIII of the Amended Complaint and after December 31, 1995 relating to oversight of the Guard Basin clean-up. These costs shall include, but are not limited to: (1) personnel services costs, (2) travel costs, (3) automobile operating costs, (4) professional contractor costs, (5) laboratory costs, (6) response contractor costs, (7) supply costs, and (8) indirect costs. The Illinois EPA will send Clark a detailed accounting of the Illinois EPA oversight activity involved, the time spent by each Illinois EPA employee involved, and the costs incurred by the Illinois EPA on a semi-yearly basis. Within 60 days of receipt of the accounting, Clark shall submit its payment in the manner specified in paragraphs (c) and (d) above.

f) To make the payment of Ten Thousand Dollars (\$10,000.00) to the Attorney General specified in paragraph III.F.6 above. The payment shall be submitted within 45 days of entry of the Board Order approving this Partial Stipulation and Proposal for Settlement and be made by corporate or certified check payable to the Attorney General for deposit into the Attorney General's Special Projects and Court Approved Distribution Fund and delivered to:

Donna Lutes  
Illinois Attorney General's Office  
Environmental Bureau  
500 South Second Street  
Springfield, Illinois 62706

C. Compliance Measures

1. Clark shall cease and desist from any violations of subsections 9(b), 9.1(b) and (d)(1) and (2), 12(a), (d), and (f), and 21(f) of the Act, (415, ILCS 5/9(b), 9.1(b) and (d)(1) and (2), 12(a), (d), and (f), and 21(f) (1994)), 35 Ill. Adm. Code 302.203, 304.141, 703.121, 703.150, 722.123, 722.134, 722.140, 725.115, 725.116, 725.131, 725.173, 725.212, 725.242, 725.291, 725.292, 725.296, and 728.107 (1994), and its permits as alleged in Counts I through III and VI through XIII of the Amended Complaint.

2. In addition to any other authority provided by law, Clark shall allow duly authorized representatives of the Attorney General's Office and/or the Illinois EPA entry and access to those portions of Clark's Hartford refinery, terminal, and pipelines covered by this Partial Stipulation and Proposal for Settlement to investigate and verify compliance with the terms and objectives of this Partial Stipulation and Proposal for Settlement, including, but not limited to photographs, reviewing and copying plant records and other documents, and inspecting equipment, process operations and remedial activities. Clark may request that any photographs, information, or copies obtained during such inspections be maintained and handled by Plaintiffs

as exempt from disclosure by the State pursuant to Section 7(g) of the Freedom of Information Act, 5 ILCS 140/7(f) (1994), pursuant to Section 7 of the Act, 415 ILCS 5/7 (1994), or pursuant to 2 Ill. Adm. Code 1827.201-1827.603. If applicable, the restrictions on disclosure of those provisions shall be applied.

3. Spills Compliance Measures

a. Clark has submitted plans for sampling and analysis of the following areas to determine whether any further remedial action is necessary to address the spills in those areas:

Area A; Spill No. 940851

Area B; Spill No. 941772

Area C; Spill No. 942837

Area D; Spill No. 941526

Area E; Spill No. 930211

Area F; Spill Nos. 942288, 941873, 942855, 951217

Area G; Spill No. 931160

Area H; Spill Nos. 941913, 942188

Area J; Spill No. 942432

Those plans have been approved by the Illinois EPA.

b. Within 30 days of Board approval of this Partial Stipulation and Proposal for Settlement, Clark shall implement the approved sampling and analysis plans for the areas specified in Paragraph VII.C.3.a.

c. Within 75 days following approval of this Partial Stipulation and Proposal, Clark shall submit to the Illinois EPA



Office of Chemical Safety a Tier 1, 2 or 3 Risk Assessment or Risk Assessments, as may be appropriate, including proposed clean-up objectives, for the areas specified in Paragraph VII.C.3.a. in accordance with the procedures and standards contained in Section 58 of the Act, 415 ILCS 5/58.5-58.7 (1995) and using the applicable version of TACO (as described in Paragraph III.C.4.).

d. Within 45 days after receipt of the Risk Assessment(s) and proposed CUO's, the Illinois EPA shall provide in writing either: 1) an approval of the Risk Assessment(s) and proposed CUO's; 2) an approval of the Risk Assessment(s) and/or proposed CUO's with conditions; or 3) a disapproval of the Risk Assessment(s) and proposed CUO's in whole or in part. Any Illinois EPA disapproval or approval with conditions shall be accompanied with a written explanation of such action consistent with Section 58.7(d)(3) of the Illinois Environmental Protection Act (415 ILCS 5/58.7(d)(3)).

e. In the event that the Illinois EPA disapproves, in whole or in part, or approves with conditions a proposed Risk Assessment or proposed CUO's, Clark shall have 35 days to either: 1) notify Illinois EPA that it will submit a revised Risk Assessment and/or CUO's to the Illinois EPA within 45 days or 2) request a 45-day period to meet with Illinois EPA to resolve differences between the parties and, if matters are not resolved, within 14 days after the end of the 45 day period, appeal the Illinois EPA's disapproval or approval with conditions as a final

Illinois EPA action to the Illinois Pollution Control Board. A revised Risk Assessment and/or revised CUO's shall be reviewed by the Illinois EPA and approved or disapproved as provided in paragraph d. above. An appeal pursuant to this paragraph shall be subject to the procedures and standards of review applicable to permit appeals under the Illinois Environmental Protection Act.

f. Within 45 days after receipt of the Illinois EPA's written approval of the proposed CUO's for an incident, Clark shall submit to the Illinois EPA Office of Chemical Safety , either 1) a Remedial Action Completion Report ("RACP") with the approved CUO's for that incident or 2) a Remedial Action Plan ("RAP"), including a schedule, for achieving compliance with the approved CUO's for that incident.

g. Within 45 days after receipt of a RACP or RAP, the Illinois EPA shall either approve or disapprove, in writing, the RACP or RAP. The Illinois EPA may disapprove a RACP or RAP in whole or in part. The Illinois EPA may also approve a RACP or RAP with conditions. The Illinois EPA shall not require that a RACP or RAP required under this Proposal for Settlement address contamination which is not associated with the spill incidents which are the subject of the Amended Complaint. Clark shall have the burden of demonstrating that contamination encountered during sampling pursuant to an approved sampling and analysis plan is not associated with the spill incident being investigated.

h. In the event the Illinois EPA approves a RACP submitted by Clark, the Illinois EPA shall issue to Clark a letter pertaining to the area or areas covered by the RACP. Such letter shall be consistent with and have the effect of a No Further Remediation Letter issued pursuant to Section 58.10 of the Act, 415 ILCS 5/58.10 (1995).

i. In the event that the Illinois EPA disapproves a RACP or RAP, in whole or in part, or approves a RACP or RAP with conditions, Clark shall have 35 days to either: 1) notify Illinois EPA that it will submit a revised RACP or RAP within 45 days or 2) request a 45-day period to meet with Illinois EPA to resolve differences between the parties and, if matters are not resolved, within 14 days after the end of the 45-day period, appeal the Illinois EPA's disapproval or approval with conditions as a final Illinois EPA action to the Illinois Pollution Control Board. An appeal pursuant to this paragraph shall be subject to the procedures and standards of review applicable to permit appeals under the Illinois Environmental Protection Act.

j. Within 30 days following receipt of Illinois EPA approval of a RAP, Clark shall commence implementation of the RAP and shall, thereafter, provide the Illinois EPA with quarterly reports on the status of work under the RAP. Upon completion of the work prescribed by the RAP, Clark shall either 1) submit a RACP with the approved CUO's or 2) an Addendum to the RAP for achieving compliance. The procedures in paragraphs h and i above shall apply to a RACP under this paragraph and to an Addendum to a RAP.

k. Clark has submitted a RAP and groundwater monitoring protocol for Area K (Black Oil River Line: Incident No. 940515) which has been approved by the Illinois EPA. Clark shall commence implementation of that RAP and groundwater monitoring protocol for Area K within 30 days after approval of this Partial Stipulation and Proposal for Settlement.

l. Clark has submitted to Illinois EPA a RAP for Area L (River Dock: Incident Nos. 941701, 950726, and 950893) and shall commence implementation of that RAP within 30 days after receiving approval of the RAP or the approval of this partial stipulation, whichever is later.

m. The review, approval and appeal of standards and procedures in this Section VII.C.3 shall apply to Illinois EPA actions on any Risk Assessments, CUO's, RAP's or RACP's submitted by Clark for Areas A - L.

n. Clark shall provide at least ten (10) days notification to the Illinois EPA of any field activities associated with the tasks set forth in paragraphs VII (c) (3) (a) - (m) above. Clark shall coordinate with the Illinois EPA all of its field activities to give the Illinois EPA or its representatives an opportunity to provide field oversight and collect samples.

o. Within 60 days following Board approval of this Partial Stipulation and Proposal for Settlement, Clark shall prepare and submit to the Illinois EPA for review a generic sampling protocol and quality assurance plan for initial soil sampling at the site of future spill incidents at the Hartford facility. This

protocol is intended to be used as guidance by Clark and the Illinois EPA.

4. RCRA Compliance Measures

a. Clark shall operate Tank T-171 in compliance with the RCRA regulations of 35 Ill. Adm. Code Parts 721-728 (1994) applicable to a less than 90-day storage tank.

b. Clark shall complete all tasks related to the soil sampling for the Guard Basin within 180 days of Board approval of this Partial Stipulation and Proposal for Settlement.

c. For all tasks prescribed under the Quality Assurance Project Plan For The Guard Basin Removal Action dated February 1994; the Work Plan For the Guard Basin Removal Action dated February 1994; and addendum dated May 24, 1994 that require laboratory analysis or field measurements, Clark shall submit a report to the Illinois EPA documenting these analytical results and field measurements within 90 days of such activities. If these results demonstrate an exceedance of Groundwater Quality Standards, Clark shall submit a Remediation Objectives Report to establish site specific cleanup objectives in accordance with Sections 58.5-58.7 of the Act, 415 ILCS 5/58.5-58.7 (1995).

d. Within 45 days after receipt of approval of any site specific CUO's which may be established pursuant to Paragraph (c) above, or within 90 days after Clark determines no site-specific CUO's will be proposed, Clark shall submit either a Remedial Action Plan, consistent with Section 58.6(d) of the Act, 415 ILCS 5/58.6(d) (1994), which shall include a schedule for

implementation, or a Remedial Action Completion Report consistent with Section 58.6(e)(2) of the Act, 415 ILCS 5/58.6(e)(2)(1994), documenting compliance with the established CUO's to the Illinois EPA for review and approval.

e. Clark shall provide at least ten (10) days notification to the Illinois EPA of any field activities associated with the tasks set forth in the Quality Assurance Project Plan For The Guard Basin Removal Action dated February 1994; the Work Plan For The Guard Basin Removal Action dated February 1994; the Site Health and Safety Plan dated February 7, 1994; addendum dated May 24, 1994; and any field tasks associated with remedial action deemed necessary pursuant to paragraph (d) above. Clark shall coordinate with the Illinois EPA all of its field activities to give the Illinois EPA or its representatives an opportunity to provide field oversight and collect samples.

5. NPDES Compliance Measures

a. Clark shall take Reactor T-66 and T-67 out of service and perform the following tasks: repair or replace the floors; install nozzles so that the reactors operate in series; hydrotest; and start-up and adjust reactor operation. The work on T-67 shall be completed within 30 days following Board approval of this Partial Stipulation and Proposal for Settlement. The work on T-66 shall be completed by October 1, 1996.

b. Clark shall develop a modified operational protocol and train its operators in the implementation of that protocol by October 1, 1996.

c. The waste water treatment plant shall achieve steady state operations by July 1, 1997.

d. During the period of November 1, 1995 thorough July 1, 1997, samples from the wastewater treatment plant Clark shall not exceed the following interim limits:

INTERIM LIMITS

	<u>Concentration1/ (mg/l)</u>		<u>Load2/ (lbs/day)</u>	
	<u>Daily</u>	<u>Mo. Avg.</u>	<u>Daily</u>	<u>Mo. Avg.</u>
BOD	60	30	700 (890)	237 (494)
TSS	70	40	620 (620)	317 (396)
PHENOL	0.75	0.20	6.65 (6.65)	1.58 (3.24)
AMMONIA	-	-	593 (593)	270 (270)

All other parameters, including increases for storm water allowances, would remain at current permit limits.

1/ Interim concentration limits were derived as follows:

- 1) Analytical data for each parameter for January 1994 through October 1995 was averaged.
- 2) General achievability was confirmed by comparing the average for each parameter with the levels reported in the Discharge Monitoring Reports for 1994 and 1995.

2/ Interim load limits were derived as follows:

- 1) Average and maximum loads for each parameter were calculated based on average flow = 0.949 million gallons and maximum flow = 1.4 million gallons (provided by Illinois EPA.) The formula used is:

$$\text{Flow} \times \text{Concentration} \times 8.34 = \text{Load}$$

(8.34 is simply a conversion factor).

- 2) The calculated average and maximum flows for each parameter were compared to federal guidelines for a refinery Hartford's size.
- 3) The lower of the calculated or federal load limit was selected as the interim limit. Federal load limits are shown in parenthesis.



6. Force Majeure.

a. Any failure by Clark to comply with any requirement of Paragraph VII.C.3-5 shall not be a violation if such failure is the result of actions by persons or events beyond the reasonable control of Clark, including, but not restricted to, acts of God, acts of other parties, fires, floods, strikes, freight embargoes, or delays of contractors due to such causes.

b. When, in the opinion of Clark, circumstances have occurred which cause or may cause a violation of any provision of Paragraphs VII.C.3-5, Clark shall notify the Illinois EPA in writing as soon as practicable but not later than three (3) calendar days after the claimed occurrence. Failure to so notify the Illinois EPA shall constitute a waiver of any defense under this Paragraph 6 arising from said circumstances.

c. Unless and until the Illinois EPA provides written notification that it disagrees that the delay in compliance has been or will be caused by circumstances beyond the reasonable control of Clark, Clark will be deemed to have an extension of the time for performance for a period equal to the delay resulting from such circumstances.

d. Increased costs associated with implementing the measures required by Paragraph VII(C) shall not, by itself, excuse Clark from a failure to comply under the provisions of this Paragraph 6.

7. Compliance with other laws and regulations.

This Partial Stipulation and Proposal for Settlement in no way affects Clark's responsibility to comply with any federal, state, or local law, regulation, permit, or ordinance including, but not limited to the Act, 415 ILCS 5/1 et seq. (1995) and the Board's Regulations, or the interim limits provided herein.

D. Covenant Not to Sue

1. In consideration of Clark's payment of the civil penalty specified above and the response costs specified above, Clark's performance of the environmental projects described above and Clark's compliance with the terms and conditions of this Partial Stipulation and Proposal for Settlement, and effective upon approval thereof by the Board, the Attorney General and the Illinois EPA covenant not to sue Clark or seek attorneys fees pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (1994), for any alleged violation in 1) Counts I through III and VI through XIII of the Amended Complaint; and 2) the August 25, 1995, and September 22, 1995, Pre-Enforcement Conference Letters from the Illinois EPA or any violation which would be premised upon the circumstances or conduct which formed the basis for any violation alleged in 1 or 2 above. In consideration of the same, the Attorney General and the Agency further covenant not to sue Clark in any action before the Board or any Circuit Court of Illinois based upon the violations or facts alleged in Count I of the original Complaint filed in this enforcement action. Nothing in this paragraph shall limit the State's authority to enforce

the terms of this Partial Stipulation and Proposal for Settlement.

2. This covenant not to sue does not extend to:

a) Criminal liability;

b) Claims based on Clark's failure to meet the requirements of the Partial Stipulation and Proposal for Settlement;

c) Claims based on conduct or circumstances which did not form the basis for any violation alleged in 1) Counts I through III and VI through XIII of the Amended Complaint and 2) the August 25, 1996, and September 22, 1996, Pre-Enforcement Conference Letters from the Illinois EPA.

d) Liability for future violation of state, federal, local and common laws and/or regulations;

e) Liability for natural resource damage arising out of the alleged violations; and

f) Liability to third parties arising out of the alleged violation for removal, cleanup or remedial action as a result of a release of hazardous substances or petroleum.

3. Nothing in this Partial Stipulation and Proposal for Settlement 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 or the Illinois EPA may have against any person, firm, corporation, or entity other than Clark Refining and Marketing, Inc., its parent, subsidiary and

CLARK REFINING AND MARKETING, INC.

Respondent,

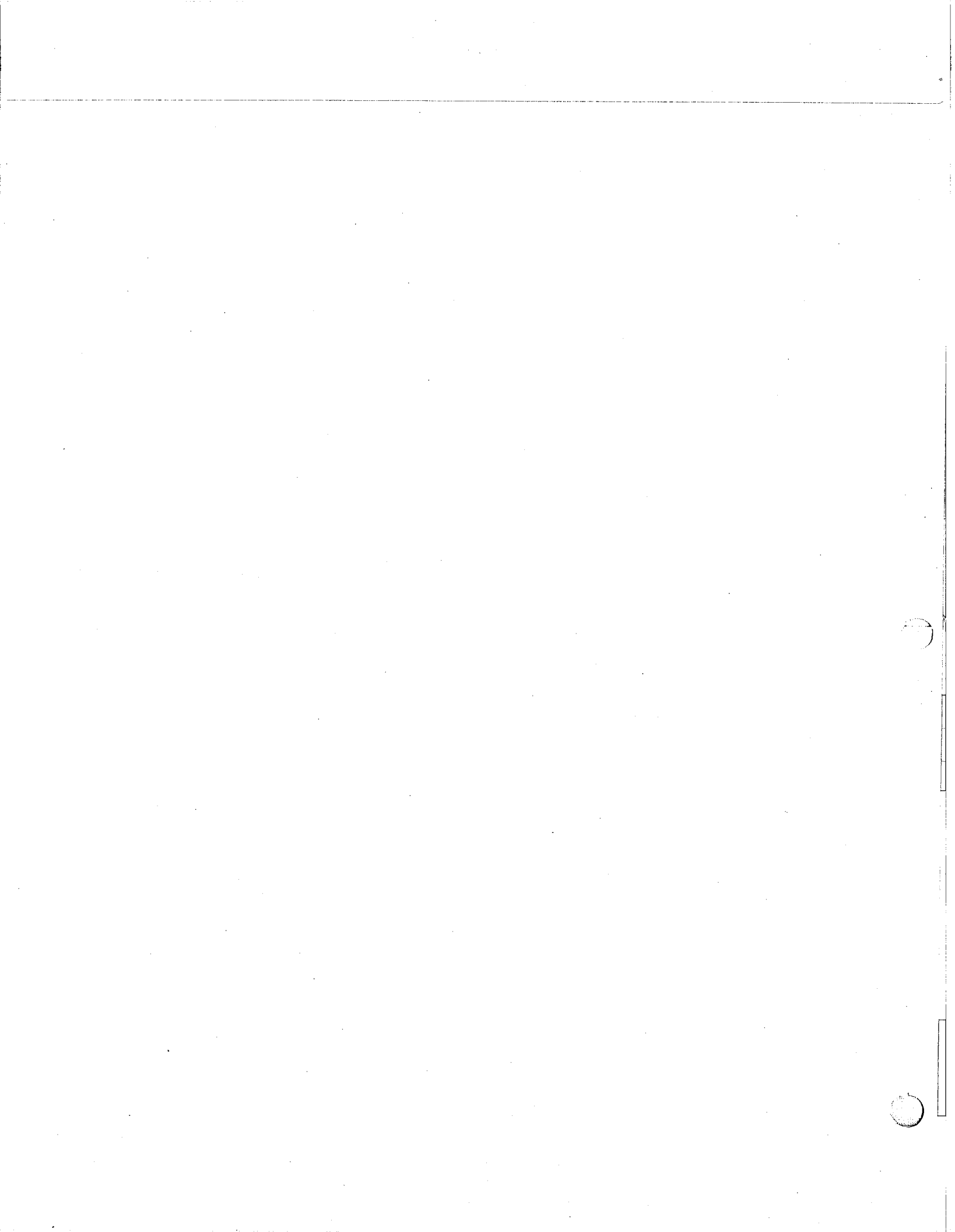
DATED: 11/18/96

BY:

*Forrest Lauher*

NAME: Forrest Lauher

FEIN 43-1491230



affiliate companies and their employees, directors, officers, agents, successors and assigns.

4. This covenant not to sue is premised and contingent upon Clark's compliance with the terms of the Partial Stipulation and Proposal for Settlement. In the event that Clark refuses or otherwise fails to comply, the State, in addition to any other remedies, may seek injunctive or other relief to compel compliance.

Respectfully submitted,

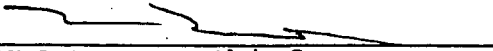
PEOPLE OF THE STATE OF ILLINOIS,

ex. rel. JAMES E. RYAN, Attorney  
General of the State of Illinois

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

DATED: 11/05/95

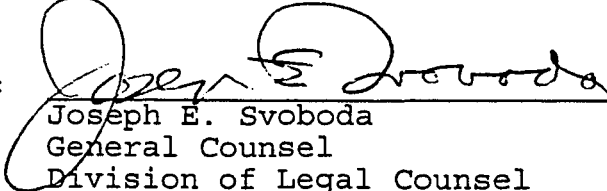
BY:

  
THOMAS DAVIS, Chief  
Environmental Bureau  
Assistant Attorney General

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

DATED: 11-14-96

BY:

  
Joseph E. Svoboda  
General Counsel  
Division of Legal Counsel

the terms of this Partial Stipulation and Proposal for Settlement.

2. This covenant not to sue does not extend to:

a) Criminal liability;

b) Claims based on Clark's failure to meet the requirements of the Partial Stipulation and Proposal for Settlement;

c) Claims based on conduct or circumstances which did not form the basis for any violation alleged in 1) Counts I through III and VI through XIII of the Amended Complaint and 2) the August 25, 1996, and September 22, 1996, Pre-Enforcement Conference Letters from the Illinois EPA.

d) Liability for future violation of state, federal, local and common laws and/or regulations;

e) Liability for natural resource damage arising out of the alleged violations; and

f) Liability to third parties arising out of the alleged violation for removal, cleanup or remedial action as a result of a release of hazardous substances or petroleum.

3. Nothing in this Partial Stipulation and Proposal for Settlement 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 or the Illinois EPA may have against any person, firm, corporation, or entity other than Clark Refining and Marketing, Inc., its parent, subsidiary and