

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, )  
 )  
 Complainant, )  
 )  
 v. )  
 )  
 G & M TOTAL, INC., an Illinois )  
 Corporation, GEORGE PAPAS, )  
 individually and as President of )  
 G & M TOTAL, INC., )  
 )  
 Respondents. )

PCB No. 97-119  
(Enforcement)

**RECEIVED**  
CLERK'S OFFICE

**AUG 26 2004**

STATE OF ILLINOIS  
Pollution Control Board

NOTICE OF FILING

TO: Mr. Thomas Davis  
2610 Sheridan Road  
Suite 214  
Zion, Illinois 60099

Bradley P. Halloran  
Hearing Officer  
Illinois Pollution Control Board  
James R. Thompson Center  
100 W. Randolph St., Suite 11-500  
Chicago, Illinois 60601

PLEASE TAKE NOTICE that the Complainant, PEOPLE OF THE STATE OF ILLINOIS, filed with the Illinois Pollution Control Board, its MOTION FOR VOLUNTARY DISMISSAL, a true and correct copy of which is attached hereto and is hereby served upon you.

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

BY: Katherine A. Kelly  
KATHERINE A. KELLY  
Assistant Attorney General  
Environmental Bureau  
188 West Randolph, 20<sup>th</sup> Floor  
Chicago, IL 60601  
(312) 814-3153

Dated: August 26, 2004

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Complainant, )  
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STATE OF ILLINOIS  
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MOTION FOR VOLUNTARY DISMISSAL

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, pursuant to 735 ILCS 5/2-1009(a) (2004), requests this Board to voluntarily dismiss the alleged violation of Section 12(a) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/12(a) (1996) asserted in Count I of Complainant's Complaint filed against G&M Total, Inc. and George Papas on January 8, 1997 ("Complainant's Complaint"). In support of this motion, Complainant states as follows:

1. On January 8, 1997, Complainant filed a two-count complaint against Respondents alleging violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (1996), and Sections 731.160, 731.162 and 731.163 of the Illinois Pollution Control Board Leaking Underground Storage Tank Regulations ("Board LUST

Regulations"), 35 Ill. Adm. Code 731.160, 731.162 and 173.163 (1996).

2. On December 1, 2003, Complainant filed a Motion for Summary Judgment requesting the Board find that Respondents violated Section 12(a) of the Act, 415 ILCS 5/12(a) (1996), and Sections 731.160, 731.162 and 731.163 of the Board's LUST Regulations, 35 Ill. Adm. Code 731.160, 731.162 and 731.163.

3. On March 4, 2004, the Board entered an Order granting Complainant partial summary judgment finding that Respondents violated Sections 731.160, 731.162 and 731.163 of the Board's LUST Regulations, but denied Complainant summary judgment with respect to the 12(a) violation alleged in Count I of Complainant's Complaint.

4. Because the Board found that Respondents violated Sections 731.160, 731.162 and 731.163 of the Board's LUST Regulations, Complainant filed with the Board a Brief for a Final Remedy, therefore, Complainant does not believe it necessary to request that the Board also find Respondents liable for violating Section 12(a) of the Act, 415 ILCS 5/12(a) (1996) as alleged in Count I of Complainant's Complaint.

5. This motion is properly brought before trial or hearing on this case, pursuant to Section 5/2-1009(a) of the Illinois

Code of Civil Procedure, 735 ILCS 5/2-1009(a) (2004).

WHEREFORE, the Complainant respectfully requests that the Board voluntarily dismiss the alleged violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (1996), asserted in Count I of Complainant's Complaint, without prejudice, all parties to bear their own costs and any other relief the Board deems appropriate and just.

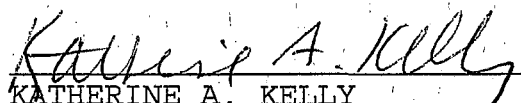
Respectfully submitted,

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

ROSEMARIE CAZEAU, Chief  
Environmental Bureau  
Assistant Attorney General

BY:

  
KATHERINE A. KELLY  
Assistant Attorney General  
Environmental Bureau  
188 W. Randolph St. - 20th Fl.  
Chicago, IL 60601  
(312) 814-3153

CERTIFICATE OF SERVICE

I, KATHERINE A. KELLY, an Assistant Attorney General, do certify that I caused to be mailed this 26<sup>th</sup> day of August, 2004, the foregoing MOTION and NOTICE by first-class mail in a postage prepaid envelope and depositing same with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois, 60601.

Katherine A. Kelly