

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD OCT 26 2004

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.)
)
 HERITAGE FS, INC., an Illinois)
 incorporated cooperative,)
)
 Respondent.)

STATE OF ILLINOIS
Pollution Control Board

PCB No. 04-224
(Enforcement - Water)

NOTICE OF FILING

TO: See Attached Service List.

PLEASE TAKE NOTICE that on October 26, 2004, the People of the State of Illinois filed with the Illinois Pollution Control Board a Stipulation and Proposal for Settlement and Motion for Relief from Hearing Requirement, true and correct copies of which are attached and hereby served upon you.

Respectfully submitted,

LISA MADIGAN
Attorney General
State of Illinois

BY:


JENNIFER A. TOMAS

Assistant Attorney General
Environmental Bureau
188 W. Randolph Street, Suite 2001
Chicago, Illinois 60601
(312) 814-0609

THIS FILING IS SUBMITTED ON RECYCLED PAPER

SERVICE LIST

Heritage FS, Inc.
1381 S. Crescent
Gilman, Illinois 60938

Thomas G. Safley
Hodge Dwyer Zeman
3150 Roland Avenue
P.O. Box 5776
Springfield, Illinois 62705-5776

Charles Gunnarson
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

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

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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PEOPLE OF THE STATE OF ILLINOIS,)
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PCB No. 04-224
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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 pursuant to Section 31(c) (2) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(c) (2) (2002), moves that the Illinois Pollution Control Board ("Board") grant the parties in the above-captioned matter relief from the hearing requirement imposed by Section 31(c) (1) of the Act, 415 ILCS 5/31(c) (1) (2002). In support of this motion, Complainant states as follows:

1. The Complaint in this matter alleges violation of the Sections 12(a), (d) and (f) of the Act, 415 ILCS 5/12(a), (d) and (f) (2002), and Sections 309.102(a), 302.203, 304.105 and 304.106 of the Board regulations, 35 Ill. Adm. Code 309.102(a), 302.203, 304.105 and 304.106.

2. Complainant is filing this Motion and a Stipulation and Proposal for Settlement with the Board.

3. The parties have reached agreement on all outstanding issues in this matter.

4. This agreement is presented to the Board in a Stipulation and Proposal for Settlement filed this same date.

5. All parties agree that a hearing on the Stipulation and Proposal for Settlement is not necessary, and respectfully request relief from such a hearing as allowed by Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2)(2002).

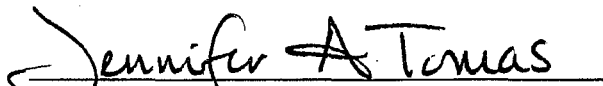
WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby requests that the Board grant this motion for relief from the hearing requirement set forth in Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1)(2002).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN
Attorney General
State of Illinois

BY:



JENNIFER A. TOMAS
Assistant Attorney General
Environmental Bureau
188 W. Randolph St., 20th Floor
Chicago, Illinois 60601
(312) 814-0609

DATE: October 26, 2004.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

OCT 26 2004

PEOPLE OF THE STATE OF ILLINOIS,)
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 Complainant,)
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 HERITAGE FS, INC., an Illinois)
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STATE OF ILLINOIS
Pollution Control Board

PCB No. 04-224
(Enforcement - Water)

STIPULATION AND PROPOSAL FOR SETTLEMENT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, the Illinois Environmental Protection Agency ("Illinois EPA"), and Respondent, HERITAGE FS, INC. ("Heritage"), an Illinois incorporated cooperative, 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. The parties agree that the statement of facts contained herein represents a fair summary of the evidence and testimony which would be introduced by the parties if a trial were held. The parties further stipulate that this statement of facts is made and agreed upon for purposes of settlement only and that neither the fact that a party has entered into this Stipulation, nor any of the facts stipulated herein, shall be introduced into evidence in any other proceeding regarding the claims asserted in the Complaint except as otherwise provided herein. If the Board approves and enters this Stipulation, Respondent agrees to be bound by the Stipulation and not to contest its validity in any

subsequent proceeding to implement or enforce its terms.

I.

JURISDICTION

The Board has jurisdiction over the subject matter herein and of the parties consenting hereto pursuant to the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/1 et seq. (2002).

II.

AUTHORIZATION

The undersigned representatives for each party certify that they are fully authorized by the party whom they represent to enter into the terms and conditions of this Stipulation Agreement and to legally bind them to it.

III.

STATEMENT OF FACTS

A. Parties

1. On June 23, 2004, 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 (2002), against the Respondent.

2. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2002)

3. At all times relevant to the Complaint, Respondent, HERITAGE, was and is an Illinois incorporated cooperative pursuant to the Agricultural Co-operative Act, 805 ILCS 315/1 et seq. (2004), that is authorized to transact business in the State of Illinois.

B. Site Description

1. At all times relevant to this Complaint, Respondent Heritage operated a branch bulk fuel facility located at 2201 Grinnel Road, Kankakee, Kankakee County, Illinois ("Site").

2. Heritage is a retailer of farm fertilizer and chemicals as well as petroleum and LP gas. On July 9, 2003, during the offloading of diesel fuel from a delivery truck to a tank at the Site, a valve malfunctioned or was placed in the wrong position causing the release of approximately 790 gallons of diesel fuel. Approximately 250 gallons of the diesel fuel flowed into a recovery tank near the offloading area, while the remaining amount, approximately 540 gallons, overflowed the tank and were deposited on the ground.

3. Some of the 540 gallons that were deposited on the ground flowed, aided by subsequent heavy rains, over land approximately 400 feet to a drainage ditch which leads to Soldier Creek, a tributary of the Kankakee River, where it was carried downstream for a distance of approximately one (1) mile and discharged into the Kankakee River.

C. Allegations of Non-Compliance

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

Count I: Water Pollution

Violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2002);

Count II: Water Pollution Hazard

Violation of Section 12(d) of the Act, 415 ILCS 5/12(d) (2002);

Count III: Permit Violation

Violation of Section 12(f) of the Act, 415 ILCS 5/12(f) (2002); and Section 309.102(a) of the Board Regulations, 35 Ill. Adm. Code 309.102(a).

Count IV: Offensive Conditions

Violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2002); and Sections 302.203 and 304.105 of the Board Regulations, 35 Ill. Adm. Code 302.203 and 304.105.

Count V: Offensive Discharges

Violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2002); and Section 304.106 of the Board Regulations, 35 Ill. Adm. Code 304.106.

D. Admission of Violations

The Respondent neither admits nor denies the violations alleged in the Complaint filed in this matter and referenced herein.

E. Compliance Activities to Date

1. Upon learning of the fuel discharge into the drainage ditch leading to Soldier Creek on July 9, 2003, Heritage arranged for an environmental contractor, SET Environmental ("SET"), to remediate the spill. SET arrived at the Site on July 10, 2003

and plans were made to add booms and adjust them in response to stream levels, which were changing due to significant precipitation, and to ensure no further release of fuel from the spill site.

2. Over the next few days, booms were added, cleaned, moved and adjusted as called for by the stream level and locations of oil sheen. Fuel puddles were vacuumed and a sand berm was constructed to contain additional flow. Locks were placed on several valves to lessen the risk of release of fuel in the future.

3. On July 22, 2003, approximately ten 16-yard tractor-trailer loads of contaminated soil were removed from the Site and disposed. Eleven (11) soil samples were taken from the remediated area.

4. Results of samples taken show no appreciable contamination exceeding Tier 1 ground water objectives.

5. All remediation resulting from the spill at the Site is complete.

IV.

APPLICABILITY

A. This Stipulation Agreement shall apply to and be binding upon the Complainant and the Respondent, and any officer, director, agent, or employee of the Respondent, as well as any successors or assigns of the Respondent. The Respondent shall

not raise as a defense to any enforcement action taken pursuant to this Stipulation Agreement the failure of any of its officers, directors, agents, or employees to take such actions as shall be required to comply with the provisions of this Stipulation.

B. No change in ownership, corporate status or operator of the facility shall in any way alter the responsibilities of the Respondent under this Stipulation. In the event of any conveyance of title, easement or other interest in the facility, the Respondent shall continue to be bound by and remain liable for performance of all obligations under this Stipulation. In appropriate circumstances, however, the Respondent and a contemplated future owner or operator of the facility may jointly request, and the Complainant, in its discretion, may consider modification of this Stipulation to obligate the proposed purchaser or operator to carry out future requirements of this Stipulation in place of, or in addition to, the Respondent.

C. Severability

It is the intent of the Complainant and Respondent that the provisions of this Stipulation and Proposal for Settlement shall be severable, and should any provision be declared by a court of competent jurisdiction to be inconsistent with state or federal law, and therefore unenforceable, the remaining clauses shall remain in full force and effect.

V.

COMPLIANCE WITH OTHER LAWS AND REGULATIONS

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, 35 Ill. Adm. Code, Subtitles A through H.

VI.

IMPACT ON THE PUBLIC RESULTING FROM ALLEGED NONCOMPLIANCE

Section 33(c) of the Act, 415 ILCS 5/33(c) (2002), provides as follows:

- (c) 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:
 - (i) the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
 - (ii) the social and economic value of the pollution source;
 - (iii) 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;
 - (iv) the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
 - (v) any subsequent compliance.

In response to these factors, the parties state:

1. The impact to the public resulting from Respondent's non-compliance was that the discharge of fuel upon the land and waters of the State presented a potential risk of harm to human health and the environment.

2. Respondent's business is of social and economic benefit.

3. The facility is suitable to the area in which it is located when adequate operational practices are followed to prevent the release of diesel fuel to the environment.

4. Complying with the requirements of the Act is both technically practicable and economically reasonable.

5. Respondent remediated the site and surrounding waters and improved its material handling practices to reduce the risk of further discharges into State waters.

VII.

CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h) (2002), provides as follows:

(h) In determining the appropriate civil penalty to be imposed under . . . this Section, the Board is authorized to consider any matters of record in mitigation or aggravation of penalty, including but not limited to the following factors:

- (1) the duration and gravity of the violation;
- (2) the presence or absence of due diligence on the

part of the respondent in attempting to comply with requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;

- (3) any economic benefits accrued by the respondent because of delay in compliance with requirements, in which case the economic benefits shall be determined by the lowest cost alternative for achieving compliance;
- (4) the amount of monetary penalty which will serve to deter further violations by the respondent and to otherwise aid in enhancing voluntary compliance with this Act by the respondent and other persons similarly subject to the Act;
- (5) the number, proximity in time, and gravity of previously adjudicated violations of this Act by the respondent;
- (6) whether the respondent voluntarily self-disclosed, in accordance with subsection (i) of this Section, the non-compliance to the Agency; and
- (7) whether the respondent has agreed to undertake a "supplemental environmental project," which means an environmentally beneficial project that a respondent agrees to undertake in settlement of an enforcement action brought under this Act, but which the respondent is not otherwise legally required to perform.

In response to these factors, the parties state:

1. The spill of fuel and its entry into tributaries of Soldier Creek, Soldier Creek itself and the Kankakee River occurred on July 9, 2003 and cleanup activities were conducted for approximately two weeks. The spill resulted in an oil sheen on the receiving waters.

2. Respondent demonstrated diligence in responding to the

spill incident. Respondent and its remediation contractor met with other involved agencies to plan remedial actions, which were effectively carried out.

3. Respondent gained an economic benefit by delaying investment in measures such as valve locks, larger retention tanks and training materials for personnel, which may have prevented the occurrence of the spill. However, that economic benefit will be offset by payment of the penalty and the performance of two (2) Supplemental Environmental Projects ("SEPs") by Heritage as described herein.

4. The appropriate penalty that will serve as deterrence is Ten Thousand Dollars (\$10,000.00), in addition to two (2) SEPs.

5. To Complainant's knowledge, Respondent has no previously adjudicated violations of the Act.

6. Respondent had no knowledge of the spill prior to a third-party disclosing it to the Illinois EPA. Therefore, Respondent did not self-disclose the spill to the Illinois EPA.

7. Respondent has agreed to undertake two (2) SEPs as part of the settlement of this matter for which the Respondent is not otherwise legally required to perform.

VIII.

TERMS OF SETTLEMENT

A. Penalty

1. a. Complainant initially determined that a civil penalty of Thirty Thousand Dollars (\$30,000.00) for Respondent's violations of the Act and the Board regulations was appropriate based on the gravity of the alleged violations.

b. Respondent has agreed to implement, and Complainant has agreed to accept in partial settlement of this matter, the proposed terms of two (2) SEPs, which have the combined value of approximately Eighty-Three Thousand Seven Hundred and Eighty-Three Dollars (\$83,783.00) and are described under Section VIII.C, below.

c. In order to promote the goals of the Act to restore, protect and enhance the quality of the environment, Complainant has agreed to mitigate the civil penalty to Ten Thousand Dollars (\$10,000.00), based upon Respondent's commitment to implement two (2) SEPs.

d. The Respondent shall pay a civil penalty of Ten Thousand Dollars (\$10,000.00), within thirty (30) calendar days after the date on which the Board adopts a final order approving this Stipulation. Payment shall be made as follows:

e. Payment shall be made by certified check or money order, payable to the Illinois EPA for deposit into the

Environmental Protection Trust Fund ("EPTF") and 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

f. The name, case number, and the Respondent's Federal Employer Identification Number ("FEIN"), 36-3818145, shall appear on the face of the certified check or money order. A copy of the certified check or money order and the transmittal letter shall be sent to:

Jennifer A. Tomas
Assistant Attorney General
Environmental Bureau
188 West Randolph Street, Suite 2001
Chicago, Illinois 60601

Charles W. Gunnarson
Assistant Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

g. For purposes of payment and collection, the Respondent's attorney may be reached at the following address:

Thomas G. Safley
Hodge Dwyer Zeman
3150 Roland Avenue
P.O. Box 5776
Springfield, Illinois 62705-5776

h. For purposes of payment and collection, Respondent may be reached at the following address:

Heritage FS, Inc.
1381 S. Crescent
Gilman, Illinois 60938

i. Upon Respondent's failure to pay the civil penalty when due, the entire balance of the penalty remaining unpaid shall without notice be and become immediately due and payable.

j. In the event of default, the Complainant shall be entitled to reasonable costs of collection, including reasonable attorney's fees.

k. In the event that Respondent fails to implement the SEPs described in Section VIII.C, Respondent shall remit the amount of Twenty Thousand Dollars (\$20,000.00) to the Illinois EPA within thirty (30) calendar days after the event(s) or circumstance(s) resulting in the nonperformance. Payment of the remittance shall be made according to Section VIII.1.e and VIII.1.f, above.

B. Interest on Penalties

1. Pursuant to Section 42(g) of the Act, 415 ILCS 5/42(g)(2002), interest shall accrue on any penalty amount owed by the Respondent not paid within the time prescribed herein, at the maximum rate allowable under Section 1003(a) of the Illinois Income Tax Act, 35 ILCS 5/1003(a)(2004).

2. Interest on unpaid penalties shall begin to accrue from the date the penalty is due and continue to accrue to the date payment is received by the Illinois EPA.

3. 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.

4. All interest on penalties owed the Complainant shall be paid by certified check or money order payable to the Illinois EPA for deposit in the EPTF at the above-indicated address. The name, case number, and the Respondent's FEIN shall appear on the face of the certified check or money order. A copy of the certified check or money order and the transmittal letter shall be sent to:

Jennifer A. Tomas
Assistant Attorney General
Environmental Bureau
188 West Randolph St., Suite 2001
Chicago, Illinois 60601

Charles W. Gunnarson
Assistant Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

C. Supplemental Environmental Projects

1. In connection with this Stipulation, Respondent shall perform two (2) SEPs. For the first SEP ("SEP 1"), Respondent shall make the following upgrades at its bulk petroleum facility in Peotone, Illinois:

- a. Install a specialized loading system with pressure valves and sensors to reduce drips, spill potential and overfill when loading;
- b. Install a computerized/electronic system to ensure

that all loading lines will be closed except when in use;

- c. Construct a building over the retention pad to reduce volume of rain water to be environmentally handled; and
- d. Install an overflow alarm system.

2. Subsequent to their implementation, the Respondent shall at all times operate the above-referenced equipment, assure that it is properly calibrated and maintain it in good working order.

3. a. For the second SEP ("SEP 2"), Respondent shall donate Two Thousand Dollars (\$2,000.00) to the Kankakee County Emergency Service Disaster Agency. Payment shall be made by certified check or money order, payable to the Kankakee County Emergency Service Disaster Agency ("ESDA") and shall be sent by first class mail and delivered to:

Kankakee County Emergency Service Disaster Agency
470 East Merchant
Kankakee, Illinois 60901

Included with the check shall be a cover letter stating that the check or money order is being tendered pursuant to a SEP in settlement of this case and is a donation to be used as the ESDA deems appropriate.

b. The name, case number, and the Respondent's FEIN, 36-3818145, shall appear on the face of the certified check or money order. A copy of the certified check or money order and the transmittal letter shall be sent to:

Jennifer A. Tomas
Assistant Attorney General
Environmental Bureau
188 West Randolph Street, Suite 2001
Chicago, Illinois 60601

Charles W. Gunnarson
Assistant Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

4. Respondent shall complete SEP 1, parts a, b and d and SEP 2 by October 31, 2004. Respondent shall submit all applicable documentation necessary to construct Part c of SEP 1 by December 31, 2004. Part c of SEP 1 will be completed by March 31, 2005.

5. By signature on this Stipulation, Respondent certifies that, as of the date of entry of this Stipulation, it is not required to perform or develop the foregoing SEPs by any federal, state or local law or regulation, nor is it required to perform or develop the SEPs by agreement or injunctive relief in any other case.

6. In the event that the Respondent publicizes the SEPs, or the results of the SEPs performed hereunder, in connection with any advertisement of its business activities or any statement concerning the SEPs in a news medium, Respondent shall include or reference the following statement: "This project was undertaken in connection with the settlement of an enforcement action taken by the State of Illinois for alleged violations of

the State's environmental laws and the Illinois Pollution Control Board's regulations." The term "news media" as used herein shall have the meaning given to that term in Section 8-902(b) of the Illinois Code of Civil Procedure, 735 ILCS 5/8-902(b) (2004).

7. Respondent shall certify completion of the two (2) above-referenced SEPs by submitting a report to the Illinois EPA and the Attorney General within thirty (30) calendar days after completion.

D. Correspondence

Any and all correspondence, reports and any other documents required under this Consent Order, except for payments pursuant to Section VIII.A and VIII.C of this Stipulation, shall be submitted as follows:

As to the Complainant:

Jennifer A. Tomas
Assistant Attorney General
Environmental Bureau
188 West Randolph Street, Suite 2001
Chicago, Illinois 60601

Charles W. Gunnarson
Assistant Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

As to the Respondent:

Heritage FS, Inc.
1381 S. Crescent
Gilman, Illinois 60938

With a copy to:

Thomas G. Safley
Hodge Dwyer Zeman
3150 Roland Avenue
P.O. Box 5776
Springfield, Illinois 62705-5776

E. Future Use

Notwithstanding any other language in this Stipulation Agreement to the contrary, this Stipulation may be asserted against the Respondent in any subsequent enforcement action as evidence of a past adjudication of violation of the Act and the Board Regulations promulgated thereunder, for purposes of Sections 39(i) and/or 42(h) of the Act, 415 ILCS 5/39(i) and/or 5/42(h) (2002).

F. Right of Entry

In addition to any other authority, the Illinois EPA, its employees and representatives, and the Attorney General, her agents and representatives, shall have the right of entry into and upon the Site which is the subject of this Stipulation, at all reasonable times for the purposes of carrying out inspections. In conducting such inspections, the Illinois EPA, its employees and representatives, and the Attorney General, her employees and representatives, may take photographs, samples and collection information as they deem necessary.

G. Cease and Desist

Respondent shall cease and desist from future violations of the Act and Board regulations at the Site, including but not

limited to those Sections of the Act and Board regulations that were the subject matter of the Complaint, as outlined in Section III.C of this Stipulation.

H. Release from Liability

In consideration of the Respondent's payment of a \$10,000.00 penalty, completion of the two (2) above-referenced SEPs and its agreement to cease and desist from further violations of the Act and Board regulations, Complainant releases, waives and discharges the Respondent from further liability or penalties for any violations of the Act and Board Regulations that were the subject matter of the Complaint herein. The release set forth above does not extend to any matters other than those expressly specified in Complainant's Complaint filed on June 23, 2004. 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 Agreement.

Nothing in this Stipulation is intended as a waiver, discharge, release, or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the State of Illinois or the Illinois EPA may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315 (2002), or entity other than the Respondent.

I. Retention of Jurisdiction

The Board shall retain jurisdiction of this matter for the purpose of interpreting and enforcing the terms and conditions of the Stipulation.

J. Enforcement of Stipulation

1. Upon the entry of this Stipulation, any party hereto, upon motion, may reinstate these proceedings solely for the purpose of enforcing the terms and conditions of this Stipulation. This Stipulation is a binding and enforceable order of the Board and may be enforced by the Illinois Circuit Court through any and all available means.

2. Respondent agrees that notice of any subsequent proceeding to enforce this Stipulation may be made by mail and waives any requirement of service of process.

K. Extensions and Modifications

The parties may, by mutual written consent, extend any compliance dates or modify the terms of this Stipulation without

leave of the Board. Any such agreed extension or modification shall be in writing, signed by an authorized representative of each party, filed with the Board and incorporated into this Stipulation by reference.

WHEREFORE, the parties, by their representatives, enter into this Stipulation and submit it to the Board that it may be approved and entered.

AGREED:

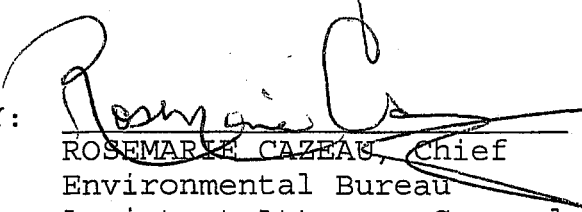
FOR THE COMPLAINANT:

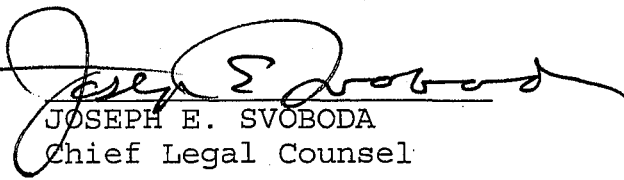
PEOPLE OF THE STATE OF ILLINOIS
by LISA MADIGAN,
Attorney General of the
State of Illinois

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

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

BY:


~~ROSEMARIE CAZEAU~~, Chief
Environmental Bureau
Assistant Attorney General


JOSEPH E. SVOBODA
Chief Legal Counsel

DATE:

8/31/04

DATE:

8-26-04

FOR THE RESPONDENT:
HERITAGE FS, INC.

BY: _____

DATE: _____

leave of the Board. Any such agreed extension or modification shall be in writing, signed by an authorized representative of each party, filed with the Board and incorporated into this Stipulation by reference.

WHEREFORE, the parties, by their representatives, enter into this Stipulation and submit it to the Board that it may be approved and entered.

AGREED:

FOR THE COMPLAINANT:

PEOPLE OF THE STATE OF ILLINOIS
by LISA MADIGAN,
Attorney General of the
State of Illinois

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

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

BY:

ROSEMARIE CAZEAU, Chief
Environmental Bureau
Assistant Attorney General

JOSEPH E. SVOBODA
Chief Legal Counsel

DATE: _____

DATE: _____

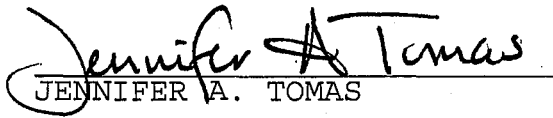
FOR THE RESPONDENT:
HERITAGE FS, INC.

BY: *Ronald L. Lister*

DATE: 9/29/04

CERTIFICATE OF SERVICE

I, JENNIFER A. TOMAS, an Assistant Attorney General, certify that on the 26th day of October 2004, I caused to be served by First Class Mail the foregoing Stipulation and Proposal for Settlement and Motion for Relief from Hearing Requirement to the parties named on the attached Service List, by depositing same in postage prepaid envelopes with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois 60601.


JENNIFER A. TOMAS