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**NOV 18 2004**

STATE OF ILLINOIS  
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
)  
Complainant, )  
)  
v. )  
)  
FLORENCE PROPHETER and PROPHETER )  
CONSTRUCTION CO., )  
)  
Respondents. )

AC 04-61

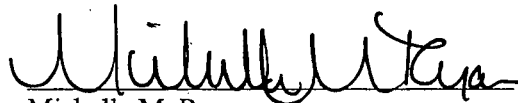
(IEPA No. 125-04-AC)

NOTICE OF FILING

To: Douglas E. Lee  
Ehrmann Gehlbach Badger & Lee  
Commerce Towers, Suite 100  
215 East First Street  
Dixon, Illinois 61021

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 ADMINISTRATIVE 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: November 15, 2004

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS  
Pollution Control Board

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	AC 04-61
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v.	)	(IEPA No. 125-04-AC)
	)	
FLORENCE PROPHETER and	)	
PROPHETER CONSTRUCTION CO.,	)	
	)	
Respondents.	)	

STIPULATION OF SETTLEMENT AND DISMISSAL  
OF RESPONDENTS' PETITION FOR ADMINISTRATIVE REVIEW

NOW COMES the Complainant, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY ("Illinois EPA"), by and through its attorney, Michelle M. Ryan, and the Respondents, FLORENCE PROPHETER and PROPHETER CONSTRUCTION CO. ("Respondents"), by and through their attorney, Douglas E. Lee, 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 RESPONDENTS' PETITION FOR ADMINISTRATIVE REVIEW ("Agreement"), and in support hereof, the parties respectfully state as follows:

1. On March 5, 2004, Greg Kazmerski, an Environmental Protection Specialist for the Illinois EPA's Rockford Regional Office, conducted an inspection of a facility owned and operated by the Respondents. The facility is located at 4509 West Lincoln Highway, Hopkins Township, Whiteside County, Illinois, and is designated with Illinois EPA Site Code No. 1958095002.

2. On April 3 and 7, 2004, the Illinois EPA served the Respondents with Administrative Citation No. 125-04-AC, alleging therein that the Respondents had caused or allowed open dumping at their facility on March 5, 2004, in a manner which resulted in the following occurrences: (1) litter, a violation of 415 ILCS 5/21(p)(1) (2002); (2) deposition of waste in standing or flowing waters, a violation of 415 ILCS 5/21(p)(4); 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 May 4, 2004, the Respondents filed a joint 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. Respondents admit that it caused or allowed open dumping resulting in litter, a violation of 415 ILCS 5/21(p)(1) (2002), and agrees to pay the statutory civil penalty of \$1,500.00 pursuant to 415 ILCS 5/42(b)(4-5) (2002).
- b. Respondents agree to pay the statutory civil penalty within thirty days of entry of the Board order approving this Stipulation.
- c. Respondents agree 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. Respondents Petition for Review filed with the Board on or about May 4, 2004 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

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

DATE: 11/15/04

-AND-

FLORENCE PROPHETER and PROPHETER CONSTRUCTION CO., Respondents,

BY: Douglas E. Lee

Douglas E. Lee  
Ehrmann Gehlbach Badger & Lee  
Commerce Towers, Suite 100  
215 East First Street  
Dixon, Illinois 61021  
(815) 288-4949

DATE: 10/25/04

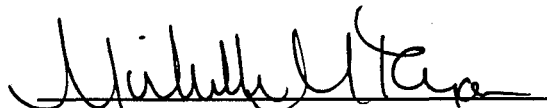
**PROOF OF SERVICE**

I hereby certify that I did on the 15<sup>th</sup> day of November 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: Douglas E. Lee Ehrmann Gehlbach Badger & Lee Commerce Towers, Suite 100 215 East First Street Dixon, Illinois 61021	Bradley Halloran Hearing Officer Illinois Pollution Control Board James R. Thompson Center 100 West Randolph Street, Suite 11-500 Chicago, Illinois 60601
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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  
P.O. Box 19276  
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