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ILLINOIS POLLUTION CONTROL BOARD

JAN 19 2005

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)	Pollution Control Board
vs.)	AC 05-32
JAMES A. HAAS, JR.,)) \	(IEPA No. 532-04-AC) (Administrative Citation)
Defendant.)	

JOINT MOTION TO VACATE BOARD ORDER

NOW COME the Respondent, JAMES A. HAAS, JR., by his attorney, Joseph E. Nack, and the ILLINOIS EPA, by its attorney, Michelle Ryan, pursuant to 35 Ill. Adm. Code 101.500 and file a motion to vacate the order in this matter and state in support thereof as follows:

- 1. That the Illinois Pollution Control Board entered an order and opinion on December 16, 2004.
- 2. That Respondent had received the administrative citation as cited in the order, and that the parties through their attorneys were working towards having the site brought in compliance with the Environmental Protection Act, 415 ILCS 5/1 et seq. ("Act").
- 3. That a settlement agreement had been reached among the parties that provided that the site was brought into compliance on or prior to December 16, 2004, the above cause of action would be dismissed and no further fine would be sought.

- 4. That an appointment was made with Kaare Jacobsen of the Illinois EPA and on December 6, 2004 a meeting took place between James A. Haas, Jr., Kaare Jacobsen and Joseph E. Nack at the site. At that time part of the site was found to be compliant, but there was additional work to be done. That Respondent was granted until December 16, 2004 to remove the remaining debris, a copy of that letter and findings are attached hereto as Exhibit "A".
- 5. That on December 16, 2004 a second meeting took place at the site at which time Kaare Jacobsen was present and inspected the site and found it to be compliant and no longer in violation of the Act, a copy of that letter and findings are attached hereto as Exhibit "B".
- 6. That Respondent complied with the agreement that had been reached between the parties' attorneys.
- 7. That Respondent had filed a Petition for Review dated November 30, 2004 and mailed via certified mail on the same date. Pursuant to 35 Ill. Adm. Code 101.300, the filing deadline was November 29th, because November 26, 2004 was a State Holiday (day after Thanksgiving). Therefore, this Petition for Review was filed one day late. The reason for the late filing was due to an emergency in the Respondent's attorney's family that prohibited the filing going out on November 29th.
- 8. The default order entered December 16, 2004 prevents Illinois EPA from effectuating the settlement agreement between the parties.

THEREFORE, the parties jointly request that the Board vacate the December 16, 2004 default order.

JAMES A. HAAS, JR., Respondent

BY: NACK, RICHARDSON & NACK, P.C., His Attorneys

Jøseph E. Nack

ILLINOIS EPA

Michelle Ryan

Special Assistant Attorney General

CERTIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument entitled JOINT MOTION TO VACATE BOARD ORDER are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.

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: January 13, 2005

CERTIFICATE OF SERVICE

Clerk of Illinois Pollution Control Board State of Illinois 100 West Randolph Suite 11-500 Chicago, IL 60601

Illinois EPA Division of Legal Counsel 1021 North Grand Avenue East P.O. Box 19276 Springfield, IL 62794-9276

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