

ORIGINAL



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CLERK'S OFFICE

MAY 02 2007

STATE OF ILLINOIS
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

April 30, 2007

The Honorable Dorothy Gunn
Illinois Pollution Control Board
James R. Thompson Center, Ste. 11-500
100 West Randolph
Chicago, Illinois 60601

Re: **People v. Roger Kuberski**
PCB No. 05-44

Dear Clerk Gunn:

Enclosed for filing please find the original and one copy of a Notice of Filing, Motion for Relief from Hearing Requirement and Stipulation and Proposal for Settlement in regard to the above-captioned matter. Please file the originals and return file-stamped copies to me in the enclosed envelope.

Thank you for your cooperation and consideration.

Very truly yours,

A handwritten signature in black ink that reads "Jennifer Bonkowski".

Jennifer Bonkowski
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706
(217) 782-9031

JB/pp
Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

MAY 02 2007

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)
)
ORIGINAL Complainant,)
)
v.)
)
ROGER KUBERSKI, d/b/a)
MOUNT VERNON QUALITY TIMES, INC.,)
)
Respondent.)

PCB No. 05-44
(Enforcement - Water)

NOTICE OF FILING

To: Roger Kuberski
9746 E. Illinois Highway 15
Mt. Vernon, IL 62864

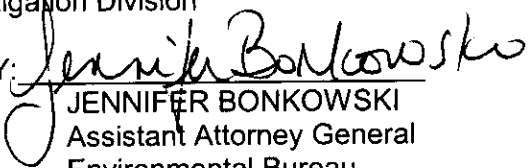
PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois, a MOTION FOR RELIEF FROM HEARING REQUIREMENT and STIPULATION AND PROPOSAL FOR SETTLEMENT, copies of which are attached hereto and herewith served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN,
Attorney General of the
State of Illinois

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

BY: 
JENNIFER BONKOWSKI
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: April 30, 2007

ORIGINAL CERTIFICATE OF SERVICE

RECEIVED
CLERK'S OFFICE

MAY 02 2007

STATE OF ILLINOIS
Pollution Control Board

I hereby certify that I did on April 30, 2007, send by First Class Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instruments entitled NOTICE OF FILING, MOTION FOR RELIEF FROM HEARING REQUIREMENT and STIPULATION AND PROPOSAL FOR SETTLEMENT:

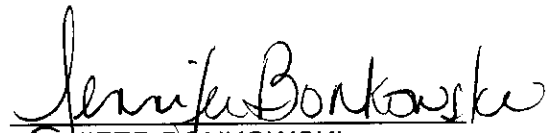
To: Roger Kuberski
9746 E. Illinois Highway 15
Mt. Vernon, IL 62864

and the original and ten copies by First Class Mail with postage thereon fully prepaid of the same foregoing instrument(s):

To: Dorothy Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
Suite 11-500
100 West Randolph
Chicago, Illinois 60601

A copy was also sent by First Class Mail with postage thereon fully prepaid to:

Carol Webb
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
Springfield, IL 62794


JENNIFER BONKOWSKI
Assistant Attorney General

This filing is submitted on recycled paper.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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MAY 02 2007

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)
)
 ORIGINAL Complainant,)
)
 v.)
)
 ROGER KUBERSKI, d/b/a)
 MOUNT VERNON QUALITY TIMES, INC.,)
)
 Respondent.)

PCB No. 05-44
(Enforcement - Water)

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) (2004), moves that the Illinois Pollution Control 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) (2004). In support of this motion, Complainant states as follows:

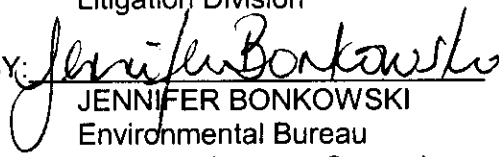
1. The parties have reached agreement on all outstanding issues in this matter.
2. This agreement is presented to the Board in a Stipulation and Proposal for Settlement, filed contemporaneously with this motion.
3. All parties agree that a hearing on the Stipulation and Proposal for Settlement is not 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) (2004).

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) (2004).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS
LISA MADIGAN
ATTORNEY GENERAL

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

BY: 
JENNIFER BONKOWSKI
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: April 30, 2007

ORIGINAL

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.)
)
 ROGER KUBERSKI, d/b/a)
 MOUNT VERNON QUALITY TIMES, INC.)
)
)
 Respondent.)

PCB NO. 05-44
(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 ROGER KUBERSKI, d/b/a MOUNT VERNON QUALITY TIMES, INC., ("Respondent" or "Kuberski"), 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 that would be introduced by the parties if a hearing 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 Board Order and not to contest their validity in any subsequent proceeding to implement or enforce their terms.

I. JURISDICTION

The Board has jurisdiction of the subject matter herein and of the parties consenting hereto pursuant to the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/1 *et seq.* (2004).

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 and to legally bind them to it.

III. STATEMENT OF FACTS

A. Parties

1. On September 2, 2004, the Complainant filed a Complaint 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(2004), 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 (2004).

B. Site Description

1. At all times relevant to the Complaint, Respondent has owned and managed a recreation vehicle park on Illinois State Route 151 in Jefferson County, Illinois.

2. The facility has a total of 44 camping/trailer sites, with electricity supplied to 33 sites. The community building contains toilets and a laundry with two washers and two dryers. The wastewater treatment plant consists of an Imhoff tank, sand filter, and effluent chlorination, with discharge to Harper Creek, except for in the winter (off-season) months.

3. Quality Times, an Illinois corporation incorporated on March 17, 1995, and involuntarily dissolved on August 2, 1999, and to which Roger Kuberski served as Agent and President, operated under NPDES Permit No. IL0051063, issued on September 15, 1997.

4. Said NPDES Permit expired on September 30, 2002. Respondent Kuberski did not at that time apply for reissuance of the NPDES Permit, notwithstanding the fact that he continued to own, manage, and operate the recreation vehicle park and its wastewater treatment plant.

5. On August 10, 2003, Respondent Kuberski submitted an application to renew the NPDES permit.

6. The Respondent failed to submit Discharge Monitoring Reports (DMRs) for the following months of operation: March through August of 2002.

7. NPDES Permit No. IL0051063 established the following limitations:

<u>Parameter</u>	<u>Concentration Limit (mg/l)</u>	
	<u>Monthly Avg.</u>	<u>Daily Max.</u>
CBOD ₅	10.0	20.0
Total Suspended Solids	12.0	24.0
Ammonia Nitrogen		
April-May/Sept.-Oct.	4.1	14.7
June - August	2.9	14.7
Nov. - Feb.	4.0	12.4
March	4.0	12.4

<u>Parameter</u>	<u>Concentration Limit</u>
pH	6.0 (min.) 9.0 (max.)
Dissolved Oxygen	Not less than 6 mg/l

8. DMRs for April through June and September of 2001, October 2002, and June through October of 2003, April through June 2005, and a grab sample in January 2006 during an Illinois EPA inspection, show that the Respondent discharged effluent beyond that permitted in its

NPDES Permit, as the following table depicts (underlined numbers represent those beyond permitted limits):

Date	Total Suspended Solids (mg/l)		CBOD ₅ (mg/l)		Ammonia Nitrogen (mg/l)	
	Mo. Avg.	D. Max.	Mo. Avg.	D. Max.	Mo. Avg.	D. Max.
4/01	<u>16</u>	X	X	X	X	X
5/01	<u>20</u>	X	X	X	X	X
6/01	<u>21</u>	X	X	X	X	X
9/01	<u>31</u>	<u>31</u>	<u>16</u>	X	X	X
10/02	<u>19</u>	X	X	X	X	X
6/03	<u>16</u>	X	X	X	X	X
7/03	<u>62</u>	<u>62</u>	X	X	<u>12.6</u>	X
8/03	<u>41</u>	<u>41</u>	X	X	X	X
9/03	<u>27</u>	<u>27</u>	X	X	<u>6.2</u>	X
10/03	<u>25</u>	<u>25</u>	X	X	<u>7.5</u>	X
4/05	<u>22</u>	X	<u>15</u>	X	X	X
5/05	<u>16</u>	X	X	X	X	X
6/05	<u>14</u>	X	X	X	X	X
1/06	X	X	X	X	X	<u>14.4</u>

9. During, but not limited to, April through June and September of 2001, October 2002, June through October of 2003, April through June 2005, and January 2006, the Respondent discharged effluent which exceeded the limits set forth in its NPDES Permit for total suspended solids, CBOD₅, and Ammonia Nitrogen, as evidenced by information reported on the DMRs and in an Illinois EPA grab sample.

10. In September 2006, the Respondent's certified wastewater operator terminated

its contract due to lack of payment, which resulted in a failure to have a certified wastewater operator contracted from October through December 2006.

C. Allegations of Non-Compliance

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

Count I: **By failing to apply for reissuance of the NPDES permit prior to its expiration date, Respondent Kuberski violated Section 309.104(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 309.104(a). By violating Section 309.104(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 309.104(a), and by continuing to operate the recreation vehicle park after September 30, 2002, without a current NPDES permit, Kuberski caused, threatened, or allowed the discharge of contaminants into the environment without an NPDES permit, and in doing so, violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2004).**

Count II: **By violating Special Condition 9 of the NPDES Permit, Kuberski caused, threatened or allowed the discharge of any contaminant into the waters of the State in violation of any term or condition imposed by such [NPDES] permit, and in doing so, violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2002).**

Count III: **By causing or allowing discharges of total suspended solids, CBODs, and Ammonia Nitrogen in excess of permitted limitations, the Respondent has violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2002), 35 Ill. Adm. Code 304.141(a) and 309.102, and NPDES Permit No. IL0051063.**

D. Admission of Violations

The Respondent admits to the violations alleged in the Complaint filed in this matter and referenced within Section III.C herein.

E. Compliance Activities to Date

Respondent renewed his NPDES permit, submitted missing DMRs, and made operation and maintenance improvements. Respondent also resolved certified wastewater operator issues that

arose in September 2006 and resulted in certified wastewater operator violations in October through December 2006.

IV. APPLICABILITY

This Stipulation 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 the failure of any of its officers, directors, agents, employees or successors or assigns to take such action as shall be required to comply with the provisions of this Stipulation.

No change in ownership, corporate status or operator of the facility shall in any way alter the responsibilities of the Respondent under this Stipulation and Proposal for Settlement. 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 the event that the Respondent proposes to sell or transfer any real property or operations subject to any Order accepting and adopting the terms of this Stipulation and Proposal for Settlement, the Respondent shall notify the Complainant 30 days prior to the conveyance of title, ownership or other interest, including a leasehold interest in the facility or a portion thereof. The Respondent shall make the prospective purchaser or successor's compliance with any Order accepting and adopting the terms of this Stipulation a condition of any such sale or transfer and shall provide a copy of this Stipulation and any Order accepting and adopting the terms of this Stipulation to any such successor in interest. This provision does not relieve the Respondent from compliance with any regulatory requirement regarding notice and transfer of applicable facility permits.

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 NON-COMPLIANCE

Section 33(c) of the Act, 415 ILCS 5/33(c)(2004), provides as follows:

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.

In response to these factors, the parties state the following:

1. Complainant contends that the injury to, or interference with, the protection of the health, general welfare, and physical property of the People would be characterized as failure to comply with requirements meant to protect water quality in the State.
2. The parties agree that Respondent's site is of social and economic benefit to the area.

3. Respondent's site is suitably located in Jefferson County, Illinois.
4. The parties agree that complying with the Act and regulations is technically practicable and economically reasonable.
5. Respondent has agreed to comply with the Act and the Board regulations.

VII. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h)(2004), provides as follows:

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 as follows:

1. From at least April 2001 through October 2003, from April through June of 2005, and again in January 2006, Kuberski operated in non-compliance with the Act and the Board's Water Pollution Regulations.
2. Since learning of the Illinois EPA's concerns, the Respondent has been diligent in attempting to comply with requirements of the Act and regulations.
3. Respondent realized a minimal economic benefit through its non-compliance.
4. Complainant has determined that a penalty of \$1,200.00, given a review of Kuberski's financial information, will serve to deter further violations.
5. To Complainant's knowledge, Respondent has no previously adjudicated violations of the Act.
6. Kuberski did not voluntarily self-disclose the non-compliance to the Illinois EPA.
7. The settlement of this matter does not include a supplemental environmental project.

VIII. TERMS OF SETTLEMENT

A. Compliance Plan

The Respondent will adhere to the following compliance schedules:

1. Within 90 days of the entry of this Order, provide recirculation by making the necessary piping changes to return the sand filter effluent back through the plant for additional treatment. Provide written notification to Vera Herst and Jennifer Bonkowski within 120 days upon completion of this item.
2. Immediately improve the operation and maintenance at the plant by:
 - a. Checking the Imhoff Tank Quarterly for sludge accumulations and pumping as necessary. Maintaining receipts of pumping the sludge for three years. In addition, monitoring the settling compartment and gas vents daily for proper operation and remove scum accumulations as necessary.

- b. Implementing a maintenance program to control the growth of weeds on the surface of the sand filters. The best method of control is to remove them as soon as they are visible. The weeds should be removed at least monthly from April through October and bi-monthly November through March.
 - c. Monitoring the sand filter media daily and preventing ponding or pooling of sewage accordingly in isolated areas of the filters. The filters should be cleaned and leveled as necessary to provide uniform distribution of sewage throughout the filter bed to improve the quality of the effluent.
 - d. Eventually the slime layer deposited on the sand surface causes the top layer of sand to become clogged or plugged. The surface of the sand media must be broken up with a garden or landscape rake. A maximum of two rakings is recommended before the filter must be cleaned by the removal of the top one to two inch layer of sand.
3. Respondent will at all times have a certified wastewater operator contracted to conduct required activities.

B. Penalty Payment

1. The Respondent shall pay a civil penalty in the sum of one thousand two hundred Dollars (\$1,200.00) within ten (10) days from the date the Board adopts and accepts this Stipulation. The penalty described in this Stipulation shall be paid by certified check, money order or electronic funds transfer payable to the Illinois EPA, designated to the Illinois Environmental Protection Trust Fund and submitted to:

Illinois Environmental Protection Agency
Fiscal Services Section
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

The name and number of the case and Respondent's Federal Employer Identification Number (FEIN), if any, shall appear on the check. A copy of the certified check, money order or record of electronic funds transfer and any transmittal letter shall be sent to:

Peggy Poitevint
Office of the Attorney General
Environmental Bureau
500 South Second Street
Springfield, Illinois 62702

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

2. Pursuant to Section 42(g) of the Act, 415 ILCS 5/42(g) (2004), interest shall accrue on any payment not paid within the time period prescribed above at the maximum rate allowable under Section 1003(a) of the Illinois Income Tax Act, 35 ILCS 5/1003 (2004). Interest on any unpaid payment shall begin to accrue from the date the payment is due and continue to accrue until the date payment is received. When partial payment(s) are made, such partial payment shall be first applied to any interest on unpaid payment then due and owing. All interest on payment owed shall be paid by certified check, money order or electronic funds transfer, payable to the Illinois EPA, designated to the Illinois Environmental Protection Trust Fund and delivered to the address and in the manner described above.

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

Mr. Roger Kuberski
9746 E. Illinois Highway 15
Mt Vernon, Illinois 62864

4. In the event of default of this Section VIII.B, the Complainant shall be entitled to all available relief including, but not limited to, reasonable costs of collection and reasonable attorney's fees.

C. Stipulated Penalties

1. If the Respondent fails to complete any activity or fails to comply with any response or reporting requirement by the date specified in Section VIII.A ("Compliance Plan") of this Stipulation, the Respondent shall provide notice to the Complainant of each failure to comply with this Stipulation. In addition, the Respondent shall pay to the Complainant, for payment into the EPTF, stipulated penalties per violation for each day of violation in the amount of \$100.00 until such time that compliance is achieved.

2. Following the Complainant's determination that the Respondent has failed to complete performance of any task or other portion of work, failed to provide a required submittal, including any report or notification, Complainant may make a demand for stipulated penalties upon Respondent for its noncompliance with this Stipulation. Failure by the Respondent to make this demand shall not relieve the Respondent of the obligation to pay stipulated penalties.

3. All penalties owed the Complainant under this section of this Stipulation that have not been paid shall be payable within thirty (30) days of the date the Respondent knows or should have known of its noncompliance with any provision of this Stipulation.

4. a. All stipulated penalties shall be paid by certified check, money order or electronic funds transfer, payable to the Illinois EPA for deposit into the EPTF and shall be sent by first class mail, unless submitted by electronic funds transfer, and delivered to:

Illinois Environmental Protection Agency
Fiscal Services
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

b. The name and number of the case and the Respondent's FEIN shall appear on the face of the check. A copy of the certified check, money order or record of electronic funds transfer and any transmittal letter shall be sent to:

Peggy Poitevint
Office of the Attorney General
Environmental Bureau
500 South Second Street
Springfield, Illinois 62702

5. The stipulated penalties shall be enforceable by the Respondent and shall be in addition to, and shall not preclude the use of, any other remedies or sanctions arising from the failure to comply with this Stipulation.

D. Future Use

Notwithstanding any other language in this Stipulation to the contrary, and in consideration of the mutual promises and conditions contained in this Stipulation, including the Release from Liability contained in Section VIII.F, below, the Respondent hereby agrees that this Stipulation may be used against the Respondent in any subsequent enforcement action or permit proceeding as proof of a past adjudication of violation of the Act and the Board Regulations promulgated thereunder for all violations alleged in the Complaint in this matter, for purposes of Section 39(a) and (i) and/or 42(h) of the Act, 415 ILCS 5/39(a) and(i) and/or 5/42(h)(2004). Further, Respondent agrees to waive any rights to contest, in any subsequent enforcement action or permit proceeding, any allegations that these alleged violations were adjudicated.

E. Cease and Desist

The Respondent shall cease and desist from future violations of the Act and Board Regulations that were the subject matter of the Complaint as outlined in Section III.C ("Allegations of Non-Compliance") of this Stipulation.

F. Release from Liability

In consideration of the Respondent's completion of all activities required hereunder, to Cease and Desist as contained in Section VIII.E and upon the Pollution Control Board's

acceptance and approval of the terms of this Stipulation and Proposal for Settlement, the Complainant releases, waives and discharges the Respondent from any further liability or penalties for violations of the Act and Board Regulations that were the subject matter of the Complaint filed on September 2, 2004, as well as additional NPDES permit limitation excursions, and certified wastewater operator violations noted in the Statement of Facts of this Stipulation. 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.

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, or entity other than the Respondent.

G. 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 Respondent's facility 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 collect information, as they deem necessary.

H. Correspondence, Reports and Other Documents

Any and all correspondence, reports and any other documents required under this Stipulation, except for payments pursuant to Sections VIII.B (“Penalty Payment”) and C (“Stipulated Penalties”) of this Stipulation shall be submitted as follows:

As to the Complainant

Jennifer Bonkowski
Assistant Attorney General
Environmental Bureau
500 South Second Street
Springfield, Illinois 62702

Vera Herst
Assistant Counsel
Illinois EPA
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

As to the Respondent

Roger Kuberski
9746 E. Illinois Highway 15
Mt Vernon, Illinois 62864

I. Modification of Stipulation

The parties may, by mutual written consent, agree to extend any compliance dates or modify the terms of this Stipulation. A request for any modification shall be made in writing and submitted to the contact persons identified in Section VIII.H. Any such request shall be made by separate document, and shall not be submitted within any other report or submittal required by this Stipulation. Any such agreed modification shall be in writing, signed by authorized representatives of each party, and then accompany a joint motion to the Illinois Pollution Control Board seeking a modification of the prior order approving and accepting the Stipulation to approve and accept the Stipulation as amended.

J. Enforcement of Board Order

1. Upon the entry of the Board's Order approving and accepting this Stipulation and Proposal for Settlement, that Order is a binding and enforceable order of the Illinois Pollution Control Board and may be enforced as such through any and all available means.

2. Respondent agrees that notice of any subsequent proceeding to enforce the Board Order approving and accepting this Stipulation and Proposal for Settlement may be made by mail and waives any requirement of service of process.

3. The parties agree that, if the Board does not approve and accept this Stipulation and Proposal for Settlement, then neither party is bound by the terms herein.


4. It is the intent of the Complainant and Respondent that the provisions of this Stipulation and Proposal for Settlement and any Board Order accepting and approving such 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.

WHEREFORE, Complainant and Respondent request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

PEOPLE OF THE STATE OF ILLINOIS,

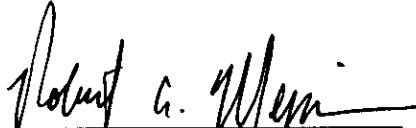
LISA MADIGAN
Attorney General
State of Illinois

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

BY: 
THOMAS DAVIS, Chief
Environmental Bureau
Assistant Attorney General

DATE: 4/10/07

ILLINOIS ENVIRONMENTAL PROTECTION
AGENCY

BY: 
ROBERT A. MESSINA
Chief Legal Counsel

DATE: 4/19/07

ROGER KUBERSKI , d/b/a
MOUNT VERNON QUALITY TIMES, INC.

BY: 

DATE: 3-15-07