



**RECEIVED**  
CLERK'S OFFICE

OCT 26 2007

STATE OF ILLINOIS  
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

**Lisa Madigan**  
ATTORNEY GENERAL

October 24, 2006

John Therriault, Assistant Clerk  
Illinois Pollution Control Board  
James R. Thompson Center, Ste. 11-500  
100 West Randolph  
Chicago, Illinois 60601

Re: ***People v. Greg Giertz, d/b/a Giertz Swine Farm #1***  
**PCB No. 07-23**

Dear Mr. Therriault:

Enclosed for filing please find the original and ten copies 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, self-addressed envelope.

Thank you for your cooperation and consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jane E. McBride", is written over a horizontal line.

Jane E. McBride  
Environmental Bureau  
500 South Second Street  
Springfield, Illinois 62706  
(217) 782-9031

JEM/pjk  
Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

**RECEIVED**  
CLERK'S OFFICE

OCT 26 2007

STATE OF ILLINOIS  
Pollution Control Board

PEOPLE OF THE STATE OF )  
ILLINOIS, )  
 )  
Complainant, )  
 )  
vs. )  
 )  
GREG GIERTZ, d/b/a )  
GIERTZ SWINE FARM #1, )  
 )  
Respondent. )

PCB No. 07-23  
(Enforcement)

NOTICE OF FILING

To: Greg Giertz  
d/b/a Giertz Swine Farm #1  
5212 Knoxville Road  
New Windsor, IL 61465


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:   
JANE E. McBRIDE  
Assistant Attorney General  
Environmental Bureau

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: October 24, 2007

**CERTIFICATE OF SERVICE**

I hereby certify that I did on October 24, 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:

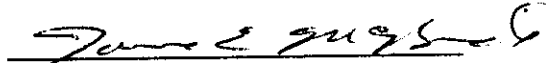
To: Greg Giertz  
d/b/a Giertz Swine Farm #1  
5212 Knoxville Road  
New Windsor, IL 61465

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

To: John Therriault, Assistant 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

  
JANE E. McBRIDE  
Assistant Attorney General

This filing is submitted on recycled paper.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS  
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS, )  
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Complainant, )  
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vs. )  
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GREG GIERTZ, d/b/a )  
GIERTZ SWINE FARM #1, )  
)  
Respondent. )

PCB No. 07-23  
(Enforcement)

**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) (2006), 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) (2006). In support of this motion, Complainant states as follows:

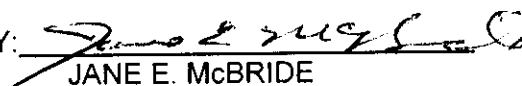
1. The parties have reached agreement on all outstanding issues in this matter.
2. This agreement is presented to the Board in a Stipulation and Proposal for Settlement, filed contemporaneously with this motion.
3. All parties agree that a hearing on the Stipulation and Proposal for Settlement is not 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) (2006).

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) (2006).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS  
LISA MADIGAN  
ATTORNEY GENERAL

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

BY:   
JANE E. McBRIDE  
Environmental Bureau  
Assistant Attorney General

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: October 24, 2007

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS  
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS )  
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Complainant, )  
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v. )  
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)  
GREG GIERTZ, d/b/a )  
GIERTZ SWINE FARM #1 )  
)  
Respondent. )

PCB No. 07-23  
(Enforcement)

**STIPULATION AND PROPOSAL FOR SETTLEMENT**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and Greg Giertz, d/b/a Giertz Swine Farm #1 ("Respondent"), 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 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 October 13, 2006, 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 was and is an individual engaged in the business of swine production in the State of Illinois.

### B. Site Description

1. At all times relevant to the Complaint, Respondent Giertz owns and operates a swine finishing facility consisting of two barns with cement feedlots and three total confinement buildings with two foot deep waste storage pits below the confinement buildings, located

approximately twenty miles south of the City of Moline in Mercer County, at 5212 Knoxville Road, New Windsor, Mercer County, Illinois 61465 (the "facility").

2. The manure flowing off Respondent Giertz' facility into the neighbor's horse pasture, flowed into a small swale in the pasture, across the pasture, and into a grass waterway that is tributary to Parker Run. This drainage flow constitutes waters of the State.

### **C. Allegations of Non-Compliance**

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

#### Count I:

1. By causing or allowing the discharge of contaminants in such a manner as to cause or threaten water pollution in Parker Run on April 6, 2004, and by causing or allowing a discharge of contaminants to exist on the land so as to create a water pollution hazard, Respondent Giertz has violated Section 12(a) and (d) of the Act, 415 ILCS 5/12(a), (d) (2004).

2. By failing to have adequate diversion dikes, walls or curbs that will prevent surface waters from flowing through the animal feeding operations on April 6, 2004, and by failing to have structures in place that direct runoff to an appropriate disposal, holding or storage area, Respondent Giertz has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2004), and 35 Ill. Adm. Code 501.403(a).

3. By failing to have adequate storage capacity in a liquid manure-holding tank, lagoon, holding pond, or any combination thereof so as not to cause water pollution as defined in the Act or applicable regulations on April 6, 2004, Respondent Giertz has violated Section 12(a) of the Act, 415 ILCS 5/12(a)(2004), and 35 Ill. Adm. Code 501.404(c)(4)(A)



Count II:

4. By causing or allowing the discharge of contaminants in such a manner as to cause or threaten water pollution in Parker Run on September 22, 2004, and by causing or allowing a discharge of contaminants to exist on the land so as to create a water pollution hazard, Respondent Giertz has violated Section 12(a) and (d) of the Act, 415 ILCS 5/12(a), (d) (2004).

5. By failing to have adequate diversion dikes, walls or curbs that will prevent surface waters from flowing through the animal feeding operations, and by failing to have structures in place that direct runoff to an appropriate disposal, holding or storage area on September 22, 2004, Respondent Giertz has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2004), and 35 Ill. Adm. Code 501.403(a).

6. By failing to have adequate storage capacity in a liquid manure-holding tank, lagoon, holding pond, or any combination thereof so as not to cause water pollution as defined in the Act or applicable regulations on September 22, 2004, Respondent Giertz has violated Section 12(a) of the Act, 415 ILCS 5/12(a)(2004), and 35 Ill. Adm. Code 501.404(c)(4)(A).

Count III:

7. By causing, allowing or threatening the discharge of contaminant into the waters of the State on April 6, 2004, without an NPDES permit for point source discharges issued by the Agency under Section 39(b) of this Act, Respondent Giertz has violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2004), and 35 Ill. Adm. Code 309.102(a).

Count IV:

8. By causing, allowing or threatening the discharge of contaminant into the waters of the State on September 22, 2004 without an NPDES permit for point source discharges issued by the Agency under Section 39(b) of this Act, Respondent Giertz has violated Section

12(f) of the Act, 415 ILCS 5/12(f) (2004), and 35 Ill. Adm. Code 309.102(a).

Count V:

9. By causing or allowing the discharge of contaminants in such a manner as to cause or threaten water pollution in Parker Run on April 6, 2002 and April 22, 2002, and by causing or allowing a discharge of contaminants to exist on the land so as to create a water pollution hazard, Respondent Giertz has violated Section 12(a) and (d) of the Act, 415 ILCS 5/12(a), (d) (2004).

Count VI

10. By causing, allowing or threatening the discharge of contaminant into the waters of the State on April 6, 2002 and April 22, 2002, without an NPDES permit for point source discharges issued by the Agency under Section 39(b) of this Act, Respondent Giertz has violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2004), and 35 Ill. Adm. Code 309.102(a).

Count VII

11. By failing to report the April 6, 2002, April 22, 2002, April 6, 2004 and September 22, 2004 releases of livestock waste from a livestock waste handling facility upon discovery of the release, and, at the latest, 24 hours after discovery of the release, Defendant Giertz has violated Section 4(h) of the Act, 415ILCS 5/4(h) (2004), and 35 Ill. Adm. Code 580.105.

**D. Admission of Violations**

The Respondent neither admits nor denies the violation(s) alleged in the Complaint filed in this matter and referenced herein.

**E. Compliance Activities to Date**

1. On June 3, 2002, the Illinois EPA received a response from Respondent Giertz regarding the April 6 and April 22, 2002 discharges from the facility. Respondent Giertz

indicated in the letter that he had recently acquired the facility, which had older buildings he was just learning how to manage. He indicated the buildings contained show pigs for his son, and that they stood empty six months of the year. Respondent Giertz indicated that, in response to the releases, he purchased a transfer pump and transferred manure to another building right after the spill. His investigation after the April 22, 2002 spill revealed that the pump out port in the west confinement building was 6 to 8 inches below the bottom of the subfloor and also lower than other pump out ports. Waste was again transferred from the west confinement building to another building at the facility after the second release. Respondent Giertz reported that he capped the pump out port on the west side of the building to prevent spills to the neighbors' property. He also indicated that with the purchase of the transfer pump, he will be able to move waste from the west building to the other building if conditions are not appropriate for land application.

2. In Respondent's July 22, 2004 response regarding the April 6, 2004 discharge, Respondent Giertz provided the following account: Respondent Giertz was informed of the discharge at 1:30 P.M. on March 20, 2004, and immediately traveled one mile to the farm. He found that liquid was overflowing out of the small nursery and had formed a puddle three to four feet in diameter on the neighbor's property. There was a cracked and leaking waterline in the nursery. He shut off the damaged waterline. He pumped contents from the nursery waste storage pit into a manure tank to stop the overflow. Respondent Giertz indicated that by the time he had completed pumping from the pit, the puddle on the neighbor's property had soaked into the dry ground. Respondent Giertz fixed the waterline and observed no further leaks when he turned the water back on.

3. In Respondent's July 22, 2004 response regarding the April 6, 2004 discharge, Respondent Giertz stated that the waste storage facilities at the farm were adequate and were

maintained. He indicated that he did not have a National Pollution Discharge Elimination System ("NPDES") permit for the farm. Respondent Giertz described the farm as his son's 4-H and college fund pig farm.

4. In response to the Illinois EPA recommended corrective measures, Respondent Giertz indicated his son did not have the financial resources to build the recommended waste containment structures. Therefore, the sows and pigs currently located on the south feedlot would be sold. Respondent Giertz indicated that the three small confinement buildings had been cleaned out in May 2004 and the north feedlot had been emptied in July 2004.

#### **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.

1. 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.

#### **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)(2002), 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. The discharges from Respondent's facility posed a threat to the environment and existed on the land as a water pollution hazard. The discharge flowed into the neighbors' horse pasture and paddock. Respondent failed to report the release and thus hindered the Illinois EPA's and Respondent's response to the run-off and discharge.

2. Respondent has represented the facility was being used solely for his son's production of livestock to generate money for his son's college education. As such, the facility was a limited production operation. The facility had social, economic and educational benefit when it was operated in compliance with the state's environmental regulations.

3. Operation of the facility is suitable for the area in which it occurred if the facility is operated in compliance with the state's environmental regulations.

4. Operation of the facility in compliance with the state's environmental regulations is both technically practicable and economically reasonable.

5. With entry of this Stipulation and Proposal for Settlement, Respondent has completed all actions necessary to bring the facility into compliance 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)(2002), 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. The Respondent caused or allowed swine waste discharges from the facility to occur on or about April 6, 2002, April 22, 2002, March 2004, April 6, 2004 and September 22, 2004. Respondent Giertz took some corrective measures in response to the discharges. In settlement of this matter, he committed to and completed additional measures.

2. There have been repeat instances of discharge at the facility. After the April 2004 discharge, Respondent indicated he would cease use of the facility. At the time of the September 2004 discharge, not all of the animals had been depopulated. At the time of an August 2006 inspection, Respondent continued to use the facility for 4-H fair livestock. Respondent has since completed depopulated the facility and has completed additional corrective measures.

3. The economic benefit of non-compliance was calculated using U.S. EPA's BEN model. The amount was calculated to be \$1,500.00.

4. Complainant has determined, based upon the specific facts of this matter, that a penalty of Three Thousand Five Hundred Dollars (\$3,500.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

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

6. Self-disclosure is not at issue in this matter.

7. The settlement of this matter does not include a supplemental environmental project.

## VIII. TERMS OF SETTLEMENT

### A. Penalty Payment

1. The Respondent shall pay a civil penalty in the sum of Three Thousand Five Hundred Dollars (\$3,500.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation. The penalty shall be paid by certified check or money order 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 shall appear on the check. A copy of the certified check or money order and any transmittal letter shall be sent to:

Jane E. McBride  
Assistant Attorney General  
Environmental Bureau  
500 South Second Street  
Springfield, Illinois 62702

Charles Gunnarson  
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:

Greg Giertz  
5212 Knoxville Rd.  
New Windsor, Illinois 61465

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

**B. 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.D, 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)(2002). 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.

**C. 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.

**D. Release from Liability**

In consideration of the Respondent's payment of the \$3,500.00 penalty and any specified costs and accrued interest, completion of all activities required hereunder, to Cease and Desist as contained in Section VIII.C 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 herein. The release set forth above does not extend to any matters other than those expressly specified in Complainant's Complaint filed on October 13, 2006. 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.

**E. 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.

**F. 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.A ("Penalty Payment") shall be submitted as follows:

As to the Complainant

Jane E. McBride  
Assistant Attorney General  
Environmental Bureau  
500 South Second Street  
Springfield, Illinois 62702

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

Eric Ackerman  
Peoria Regional Office  
Illinois EPA  
5415 North University  
Peoria, Illinois 61614

As to the Respondent

Greg Giertz

**G. 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.F. 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.

**H. 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.

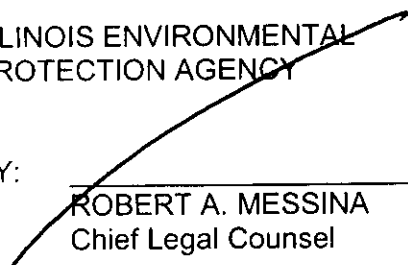
PEOPLE OF THE STATE OF ILLINOIS,

LISA MADIGAN  
Attorney General  
State of Illinois

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

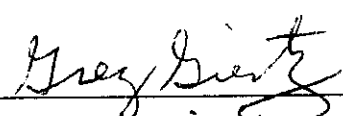
BY:   
\_\_\_\_\_  
THOMAS DAVIS, Chief  
Environmental Bureau  
Assistant Attorney General

DATE: 10/22/07

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY  
BY:   
\_\_\_\_\_  
ROBERT A. MESSINA  
Chief Legal Counsel

DATE: \_\_\_\_\_

GREG GIERTZ

BY:   
\_\_\_\_\_  
Name: Greg Giertz  
Title: OWNER

DATE: 10/19/07