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CLERK'S OFFICE  
JUN 18 2009  
STATE OF ILLINOIS  
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

Lisa Madigan  
ATTORNEY GENERAL

June 16, 2009

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

Re: ***People v. James R. Cantrell***  
**PCB No. 09-23**

Dear Clerk:

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 envelope.

Thank you for your cooperation and consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read "Stephen J. Janasie", written over a horizontal line.

Stephen J. Janasie  
Environmental Bureau  
500 South Second Street  
Springfield, Illinois 62706  
(217) 782-9031

SJJ/pjk  
Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
vs. )  
)  
JAMES R. CANTRELL, )  
)  
Respondent. )

PCB No. 09-23  
(Enforcement - Water)

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Pollution Control Board

NOTICE OF FILING

To: James R. Cantrell  
1833 County Road 1980 E  
Crossville, IL 62827

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:   
Stephen Janasie  
Assistant Attorney General  
Environmental Bureau

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031

Dated: June 16, 2009

RECEIVED  
CLERK'S OFFICE

JUN 18 2009

STATE OF ILLINOIS  
Pollution Control Board

### CERTIFICATE OF SERVICE

I hereby certify that I did on June 16, 2009, 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: James R. Cantrell  
1833 County Road 1980 E  
Crossville, IL 62827

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

To: John T. Therrault, 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

  
\_\_\_\_\_  
Stephen J. Janasie  
Assistant Attorney General

This filing is submitted on recycled paper.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
vs. )  
)  
JAMES R. CANTRELL, )  
)  
Respondents. )

PCB No. 09-23  
(Enforcement - Water)

RECEIVED  
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JUN 18 2009

STATE OF ILLINOIS  
Pollution Control Board

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:

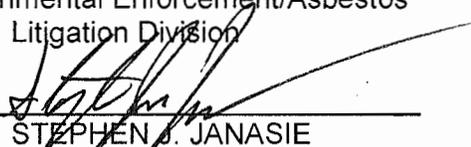
1. The parties have reached agreement on all outstanding issues in this matter.
2. This agreement is presented to the Board in a Stipulation and Proposal for Settlement, filed contemporaneously with this motion.
3. All parties agree that a hearing on the Stipulation and Proposal for Settlement is not 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:   
STEPHEN J. JANASIE  
Environmental Bureau  
Assistant Attorney General

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: June 16, 2009



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 (2006).

3. At all times relevant to this Stipulation, Respondent was authorized to operate oil production and Class II UIC (injection) wells in accordance with permits issued by the Illinois Department of Natural Resources ("IDNR") pursuant to Subsection 6(2) of the Illinois Oil and Gas Act, 225 ILCS 725/6(2) (2006).

4. The Defendant owned and operated a tank battery on the Herman Hon lease near Crossville in White County, Illinois. The tank battery was used to store and separate crude oil and produced fluids from production wells on or near the lease.

5. On or about November 14, 2005, a siphon line at the Respondent's tank battery failed during a rainstorm, releasing the contents of the separator which were estimated at 20 barrels of crude oil and 20 barrels of salt water. The tank battery's containment dike subsequently failed, releasing the produced fluids and the impounded rain water into a ditch which ultimately discharged into an unnamed creek.

6. The release was discovered and reported to IDNR at approximately 8:00 AM on November 14, 2005. The IDNR visited the site of the release and its aftermath on November 22, 2005. At the behest of IDNR, the Respondent reported the release to the Illinois Emergency Management Agency ("IEMA") on November 23, 2005. IDNR notified the Illinois EPA of the release and provided the information garnered during the November 22, 2005, site visit.

7. The Illinois EPA investigated the release and its consequent polluttional discharges on December 1, 2005. The banks of the unnamed creek were stained for approximately one mile from the point of discharge from the ditch to the confluence of the creek with Elliott Creek.

**B. Allegations of Non-Compliance**

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

Count I: Section 12(d) of the Act 415 ILCS 5/12(d) (2006).

Respondent caused or allowed the deposit of contaminants upon the land in such place and manner as to create a water pollution hazard.

Count II: Section 12(a) of the Act, 415 ILCS 5/12(a) (2006).

Respondent caused or allowed the discharge of crude oil and salt water into "waters" of the State.

**C. Admission of Violations**

The Respondent represents that it has entered into this Stipulation for the purpose of settling and compromising disputed claims without having to incur the expense of contested litigation. By entering into this Stipulation and complying with its terms, the Respondent does not affirmatively admit the allegations of violation within the Complaint and referenced within Section I.B herein, and this Stipulation shall not be interpreted as including such admission

**D. Compliance Activities to Date**

The Respondent has completed all required compliance activities. Those activities are as follows:

- Repairs to the containment dike
- Deployment of oil booms
- Repairs and reinforcement of the syphon line
- Removal of stained debris for landfill disposal
- Construction of three underflow dams for residual hydrocarbon collection
- Washing the creek of residual hydrocarbons
- Landfill disposal of residual hydrocarbons
- Lime spread in church yard
- Churchyard reseeded to prevent soil erosion

## II. APPLICABILITY

This Stipulation shall apply to and be binding upon the Parties to the Stipulation, 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. 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 for all violations alleged in the Complaint in this matter, for purposes of Sections 39 and 42 of the Act, 415 ILCS 5/39 and 42 (2006).

## III. IMPACT ON THE PUBLIC RESULTING FROM ALLEGED NON-COMPLIANCE

Section 33(c) of the Act, 415 ILCS 5/33(c)(2006), 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 to the Stipulation state the following:

1. Human health and the environment were threatened by the Respondent's violations.

2. There is social and economic benefit to the facility.
3. Operation of the facility was suitable for the area in which it occurred.
4. It is technically practicable and economically reasonable to maintain the facility so as to not allow the discharge of pollutants to the environment.
5. Respondent has subsequently complied with the Act and the Board Regulations.

#### **IV. CONSIDERATION OF SECTION 42(h) FACTORS**

Section 42(h) of the Act, 415 ILCS 5/42(h)(2006), 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 to the Stipulation state as follows:

1. Any release or threatened release of pollutants to a "water" of the State is a

serious threat to the public health and the environment.

2. Respondent was diligent in attempting to come back into compliance with the Act, Board regulations and applicable federal regulations.

3. An economic benefit calculation was inappropriate in this matter.

4. Complainant and the Illinois EPA have determined, based upon the specific facts of this matter, that a penalty of twelve thousand dollars (\$12,000.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

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

6. The Respondent reported the release to IDNR.

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

## **V. TERMS OF SETTLEMENT**

### **A. Penalty Payment**

The Respondent shall pay a civil penalty in the sum of Twelve Thousand Dollars (\$12,000.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

### **B. Stipulated Penalties, Interest and Default**

1. If the Respondent fails to make any payment required by this Stipulation on or before the date upon which the payment is due, the Respondent shall be in default and the remaining unpaid balance of the penalty, plus any accrued interest, shall be due and owing immediately. In the event of default, the Complainant shall be entitled to reasonable costs of collection, including reasonable attorney's fees.

2. Pursuant to Section 42(g) of the Act, interest shall accrue on any penalty amount owed by the Respondent not paid within the time prescribed herein. Interest on unpaid penalties

shall begin to accrue from the date such are due and continue to accrue to the date full payment is received. 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.

**C. Payment Procedures**

All payments required by this Stipulation shall be made by certified check or money order payable to the Illinois EPA for deposit into the Environmental Protection Trust Fund ("EPTF").

Payments 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

The name, case number and the Respondent's federal tax identification numbers shall appear on the face of the certified check or money order. A copy of the certified check or money order and any transmittal letter shall be sent to:

Environmental Bureau  
Illinois Attorney General's Office  
500 South Second Street  
Springfield, Illinois 62706

**D. Future Compliance**

1. In addition to any other authorities, the Illinois EPA, its employees and representatives, and the Attorney General, her employees 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 conducting inspections and evaluating compliance status. 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.

2. 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.

3. The Respondent shall cease and desist from future violations of the Act and Board Regulations that were the subject matter of the Complaint.

**E. Release from Liability**

In consideration of the Respondent's payment of the \$12,000.00 penalty, completion of all activities required hereunder, and upon the Board's approval of this Stipulation, the Complainant releases, waives and discharges the Respondent from any further liability or penalties for the 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 filed Complaint. 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.

**F. Enforcement and Modification of Stipulation**

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

**G. Execution of Stipulation**

The undersigned representatives for the Parties to the Stipulation 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.

WHEREFORE, the parties to this Stipulation request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

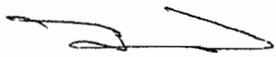
PEOPLE OF THE STATE OF ILLINOIS,

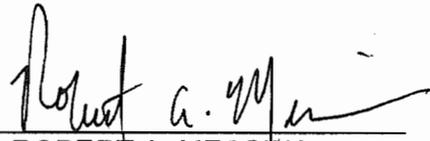
THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

LISA MADIGAN  
Attorney General  
State of Illinois

DOUGLAS P. SCOTT, Director  
Illinois Environmental Protection Agency

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

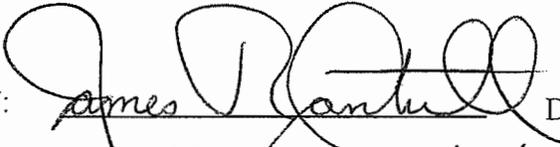
BY:   
THOMAS DAVIS, Chief  
Environmental Bureau  
Assistant Attorney General

BY:   
ROBERT A. MESSINA  
Chief Legal Counsel

DATE: 5/21/09

DATE: 5/12/09

JAMES R. CANTRELL

BY:   
Name: James R. Cantrell

DATE: 6/03/09

Title: \_\_\_\_\_