



**SERVICE LIST**

Mr. Bradley Halloran  
Chief Hearing Officer  
Illinois Pollution Control Board  
100 West Randolph Street, 11th Floor  
Chicago, IL 60601

Mr. Cleveland Kimble  
Kimble Septic, Inc.  
1334 Loretta Avenue  
Joliet, Illinois 60436

**CERTIFICATE OF SERVICE**

I, NANCY J. TIKALSKY, an Assistant Attorney General, do certify that I caused to be mailed this 16th day of May, 2007, the foregoing Motion to Request Relief from Hearing, Stipulation and Proposal for Settlement with Respondent FIRST ROCKFORD GROUP, INC., and Notice of Filing, upon the persons listed on said notice, by certified mail.

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NANCY J. TIKALSKY  
Assistant Attorney General  
Environmental Bureau  
69 W. Washington, Suite 1800  
Chicago, IL 60602  
312-814-8567

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
v. ) PCB No. 12- 93  
) (Enforcement - Water)  
KIMBLE SEPTIC, INC., an Illinois corporation, )  
and CLEVELAND KIMBLE, an individual, )  
)  
Respondents. )

**MOTION TO REQUEST RELIEF FROM HEARING REQUIREMENT**

NOW COMES the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and requests relief from the hearing requirement in the above-captioned matter. In support thereof, the Complainant states as follows:

1. On December 6, 2011, a Complaint was filed with the Illinois Pollution Control Board ("Board") in this matter. On May 16, 2012, a Stipulation and Proposal for Settlement was filed with the Board.

2. Section 31(c)(2) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(c)(2) (2010), effective August 1, 1996, allows the parties in certain enforcement cases to request relief from the mandatory hearing requirement where the parties have submitted to the Board a stipulation and proposal for settlement.

3. Section 31(c)(2) of the Act, 415 5/31(c)(2) (2010), provides as follows:

Notwithstanding the provisions of subdivision (1) of this subsection (c), whenever a complaint has been filed on behalf of the Agency or by the People of the State of Illinois, the parties may file with the Board a stipulation and proposal for settlement accompanied by a request for relief from the requirement of a hearing pursuant to subdivision (1). Unless the Board, in its discretion, concludes that a hearing will be held, the Board shall cause notice of the stipulation, proposal and request for relief to be

published and sent in the same manner as is required for hearing pursuant to subdivision (1) of this subsection. The notice shall include a statement that any person may file a written demand for hearing within 21 days after receiving the notice. If any person files a timely written demand for hearing, the Board shall deny the request for relief from a hearing and shall hold a hearing in accordance with the provisions of subdivision (1).

4. No hearing is currently scheduled in the instant case.

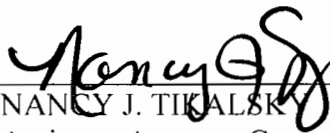
5. The Complainant requests the relief conferred by Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2010).

WHEREFORE, the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, requests relief from the requirement of a hearing pursuant to 415 ILCS 5/31(c)(2) (2010).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS  
LISA MADIGAN  
Attorney General of the  
State of Illinois

BY: \_\_\_\_\_

  
NANCY J. TIKALSKI  
Assistant Attorney General  
Environmental Bureau North  
69 West Washington Street, Suite 1800  
Chicago, Illinois 60602  
312-814-8567

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,	)	
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Complainant,	)	
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v.	)	PCB No. 12- 93
	)	(Enforcement - Water)
KIMBLE SEPTIC, INC., an Illinois corporation,	)	
and CLEVELAND KIMBLE, an individual,	)	
	)	
Respondents.	)	

**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 respondents, KIMBLE SEPTIC, INC. and CLEVELAND KIMBLE ("Respondents"), (collectively "Parties to the Stipulation"), 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. This stipulation of facts is made and agreed upon for purposes of settlement only and as a factual basis for the Board's approval of this Stipulation and issuance of relief. None of the facts stipulated herein shall be introduced into evidence in any other proceeding regarding the violations of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/1, et seq. (2010), and the Board's regulations, alleged in the Complaint except as otherwise provided herein. It is the intent of the Parties to the Stipulation that it be a final adjudication of this matter.

**I. STATEMENT OF FACTS**

**A. Parties**

1. On December 6, 2011, 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 (2010), against the Respondents ("Complaint").

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 (2010).

3. At all times relevant to the Complaint, Respondent, KIMBLE SEPTIC, INC., was and is an Illinois corporation that is authorized to transact business in the State of Illinois ("Kimble").

4. At all times relevant to this Complaint, Respondent, Cleveland Kimble, is an individual residing in the State of Illinois. At all times relevant to the Complaint, Cleveland Kimble has been and is in control of and is responsible for the day-to-day operations of Kimble.

5. At all times relevant to the Complaint, Kimble's operations are located at 636 Patterson Road, Joliet, Will County, Illinois ("Site"), where Respondents conduct a septic tank cleaning and repair service business.

**B. Allegations of Non-Compliance**

Complainant contends that the Respondents have violated the following provisions of the Act and Board regulations:

Count I: WATER POLLUTION  
Section 12(a) of the Act, 415 ILCS 5/12(a) (2010);

Count II: **VIOLETION OF THE GENERAL USE WATER QUALITY STANDARDS - OFFENSIVE CONDITIONS**

Section 12(a) of the Act, 415 ILCS 5/12(d) (2010), and Section 302.203 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 302.203;

Count III: **CREATING A WATER POLLUTION HAZARD**

Section 12(d) of the Act, 415 ILCS 5/12(d) (2010);

Count IV: **DISCHARGING A CONTAMINANT WITHOUT AN INDIVIDUAL NPDES PERMIT**

Section 12(f) of the Act, 415 ILCS 5/12(f) (2010), and Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a).

**C. Admission of Violations**

The Respondents admit to the violation(s) alleged in the Complaint filed in this matter and referenced within Section I.B herein.

**D. Compliance Activities to Date**

The Respondents completed remedial steps to prevent any further violations that were the subject matter of the Complaint by providing Will County Department of Public Health copies of disposal receipts from a certified wastewater treatment facility for the months January through April 2011, and selling the septic cleaning and repair business and his septic pumping truck on or about June 2011.

**II. APPLICABILITY**

This Stipulation shall apply to and be binding upon the Parties to the Stipulation. The Respondents 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 Respondents 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 (2010).

**III. IMPACT ON THE PUBLIC RESULTING FROM**

**ALLEGED NON-COMPLIANCE**

Section 33(c) of the Act, 415 ILCS 5/33(c) (2010), 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 discharging septic wastewater at the Site, and the Illinois EPA's information gathering responsibilities were hindered by the Respondents' 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. Disposing septic wastewater at a licensed wastewater treatment plant is both technically practicable and economically reasonable.
5. Respondents have 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) (2010, *effective as of August 23, 2011*), 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 Respondents 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 Respondents 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 Respondents and to otherwise aid in enhancing voluntary compliance with this Act by the Respondents 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 Respondents;
6. whether the Respondents voluntarily self-disclosed, in accordance with subsection i of this Section, the non-compliance to the Agency;
7. whether the Respondents have agreed to undertake a "supplemental environmental project," which means an environmentally beneficial project that Respondents agree to undertake in settlement of an enforcement action brought under this Act, but which the Respondents are not otherwise legally required to perform; and

8. whether the Respondents have successfully completed a Compliance Commitment Agreement under subsection (a) of Section 31 of this Act to remedy the violations that are the subject of the complaint.

In response to these factors, the Parties to the Stipulation state as follows:

1. The Respondents failed to dispose septic wastewater at a licensed wastewater treatment plant, and violated the Act and Board regulations when Respondents dumped septic wastewater at the Site into waters of the state. The violations began on or around December 10, 2010, and were resolved by December 15, 2010. In this instance, Respondents' failure to properly manage septic wastewater could have resulted in septic wastewater contaminating the waters of the State, which was only 1,000 feet from the point of release.
2. Respondents were diligent in their response to the Notice of Violation issued by Will County Department of Health as delegates of the Illinois EPA when they took remedial steps to prevent further non-compliance with the Act and Board regulations.
3. The Respondents recognized a nominal economic benefit from avoided costs of properly disposing the septic wastewater at a licensed wastewater treatment plant. Costs include the fuel costs to drive the septic truck to the licensed wastewater treatment plant, and the \$35.00/load costs to properly dispose the septic wastewater at the licensed wastewater treatment plant. However, the penalty of \$1,000.00 obtained exceeds any economic benefit derived by the Respondents.
4. Complainant has determined, based upon the specific facts of this matter, that a penalty of One Thousand dollars (\$1,000.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

5. To Complainant's knowledge, Respondents have 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.
8. A Compliance Commitment Agreement was proposed by Respondents, but rejected by the Illinois EPA.

**V. TERMS OF SETTLEMENT**

**A. Penalty Payment**

The Respondents shall pay a civil penalty in the sum of One Thousand Dollars (\$1,000.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

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

1. If the Respondents fail to make any payment required by this Stipulation on or before the date upon which the payment is due, the Respondents 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 Respondents 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.

3. The stipulated penalties shall be enforceable by the Complainant 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.

**C. Payment Procedures**

1. 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, Illinois 62794-9276

2. The case name, case number and the Respondent's, Kimble Septic, Inc., federal tax identification number shall appear on the face of the certified check or money order.

3. A copy of the certified check or money order and any transmittal letter shall be sent to:

Nancy J. Tikalsky  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney's General Office  
69 W. Washington Street, Suite 1800  
Chicago, Illinois 60602

**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 Respondents' 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 Respondents 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 Respondents 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 Respondents' payment of the \$1,000.00 penalty, their commitment to cease and desist as contained in Section V.D.3 above, and upon the Board's approval of this Stipulation, the Complainant releases, waives and discharges the Respondents 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 Complaint filed on December 6, 2011. The Complainant reserves, and this Stipulation is without prejudice to, all rights of the

State of Illinois against the Respondents 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 Respondents'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 may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315, or entity other than the Respondents.

**F. Enforcement 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 the Stipulation request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

FOR THE COMPLAINANT:

PEOPLE OF THE STATE OF ILLINOIS

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

LISA MADIGAN  
Attorney General  
State of Illinois

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

BY: Matthew J. Dunn  
MATTHEW J. DUNN, Chief

BY: [Signature]  
JOHN J. KIM, Interim Director

DATE: 5/14/12

DATE: 5/8/12

FOR THE RESPONDENTS:

KIMBLE SEPTIC, INC.

CLEVELAND KIMBLE

\_\_\_\_\_  
BY: \_\_\_\_\_

\_\_\_\_\_  
BY: \_\_\_\_\_

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

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



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ATTORNEY GENERAL

APR 18 2012

FOR THE COMPLAINANT:

PEOPLE OF THE STATE OF ILLINOIS

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

ENVIRONMENTAL

LISA MADIGAN  
Attorney General  
State of Illinois

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

BY: \_\_\_\_\_  
MATTHEW J. DUNN, Chief

BY: \_\_\_\_\_  
JOHN J. KIM, Interim Director

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

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

FOR THE RESPONDENTS:

KIMBLE SEPTIC, INC.

CLEVELAND KIMBLE

Cleveland Kimble

Cleveland Kimble

BY: Kimble Septic, INC.

DATE: 4-17-12

DATE: 4-17-12

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
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v.	)	PCB No. 12- 93
	)	(Enforcement - Water)
KIMBLE SEPTIC, INC., an Illinois corporation,	)	
and CLEVELAND KIMBLE, an individual,	)	
	)	
Respondents.	)	

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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 (2010).

3. At all times relevant to the Complaint, Respondent, KIMBLE SEPTIC, INC., was and is an Illinois corporation that is authorized to transact business in the State of Illinois ("Kimble").

4. At all times relevant to this Complaint, Respondent, Cleveland Kimble, is an individual residing in the State of Illinois. At all times relevant to the Complaint, Cleveland Kimble has been and is in control of and is responsible for the day-to-day operations of Kimble.

5. At all times relevant to the Complaint, Kimble's operations are located at 636 Patterson Road, Joliet, Will County, Illinois ("Site"), where Respondents conduct a septic tank cleaning and repair service business.

B. Allegations of Non-Compliance

Complainant contends that the Respondents have violated the following provisions of the Act and Board regulations:

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Section 12(a) of the Act, 415 ILCS 5/12(a) (2010);

- Count II: **VIOLETION OF THE GENERAL USE WATER QUALITY STANDARDS - OFFENSIVE CONDITIONS**  
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Section 12(d) of the Act, 415 ILCS 5/12(d) (2010);
- Count IV: **DISCHARGING A CONTAMINANT WITHOUT AN INDIVIDUAL NPDES PERMIT**  
Section 12(f) of the Act, 415 ILCS 5/12(f) (2010), and Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a).

**C. Admission of Violations**

The Respondents admit to the violation(s) alleged in the Complaint filed in this matter and referenced within Section I.B herein.

**D. Compliance Activities to Date**

The Respondents completed remedial steps to prevent any further violations that were the subject matter of the Complaint by providing Will County Department of Public Health copies of disposal receipts from a certified wastewater treatment facility for the months January through April 2011, and selling the septic cleaning and repair business and his septic pumping truck on or about June 2011.

**II. APPLICABILITY**

This Stipulation shall apply to and be binding upon the Parties to the Stipulation. The Respondents 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 Respondents 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 (2010).

**III. IMPACT ON THE PUBLIC RESULTING FROM**

**ALLEGED NON-COMPLIANCE**

Section 33(c) of the Act, 415 ILCS 5/33(c) (2010), 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 discharging septic wastewater at the Site, and the Illinois EPA's information gathering responsibilities were hindered by the Respondents' 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. Disposing septic wastewater at a licensed wastewater treatment plant is both technically practicable and economically reasonable.

5. Respondents have subsequently complied with the Act and the Board regulations.

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Section 42(h) of the Act, 415 ILCS 5/42(h) (2010, *effective as of August 23, 2011*), 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 Respondents 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 Respondents 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 Respondents and to otherwise aid in enhancing voluntary compliance with this Act by the Respondents 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 Respondents;
6. whether the Respondents voluntarily self-disclosed, in accordance with subsection i of this Section, the non-compliance to the Agency;
7. whether the Respondents have agreed to undertake a "supplemental environmental project," which means an environmentally beneficial project that Respondents agree to undertake in settlement of an enforcement action brought under this Act, but which the Respondents are not otherwise legally required to perform; and

8. whether the Respondents have successfully completed a Compliance Commitment Agreement under subsection (a) of Section 31 of this Act to remedy the violations that are the subject of the complaint.

In response to these factors, the Parties to the Stipulation state as follows:

1. The Respondents failed to dispose septic wastewater at a licensed wastewater treatment plant, and violated the Act and Board regulations when Respondents dumped septic wastewater at the Site into waters of the state. The violations began on or around December 10, 2010, and were resolved by December 15, 2010. In this instance, Respondents' failure to properly manage septic wastewater could have resulted in septic wastewater contaminating the waters of the State, which was only 1,000 feet from the point of release.
2. Respondents were diligent in their response to the Notice of Violation issued by Will County Department of Health as delegates of the Illinois EPA when they took remedial steps to prevent further non-compliance with the Act and Board regulations.
3. The Respondents recognized a nominal economic benefit from avoided costs of properly disposing the septic wastewater at a licensed wastewater treatment plant. Costs include the fuel costs to drive the septic truck to the licensed wastewater treatment plant, and the \$35.00/load costs to properly dispose the septic wastewater at the licensed wastewater treatment plant. However, the penalty of \$1,000.00 obtained exceeds any economic benefit derived by the Respondents.
4. Complainant has determined, based upon the specific facts of this matter, that a penalty of One Thousand dollars (\$1,000.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

5. To Complainant's knowledge, Respondents have 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.
8. A Compliance Commitment Agreement was proposed by Respondents, but rejected by the Illinois EPA.

**V. TERMS OF SETTLEMENT**

**A. Penalty Payment**

The Respondents shall pay a civil penalty in the sum of One Thousand Dollars (\$1,000.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

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

1. If the Respondents fail to make any payment required by this Stipulation on or before the date upon which the payment is due, the Respondents 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 Respondents 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.



3. The stipulated penalties shall be enforceable by the Complainant 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.

**C. Payment Procedures**

1. 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, Illinois 62794-9276

2. The case name, case number and the Respondent's, Kimble Septic, Inc., federal tax identification number shall appear on the face of the certified check or money order.

3. A copy of the certified check or money order and any transmittal letter shall be sent to:

Nancy J. Tikalsky  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney's General Office  
69 W. Washington Street, Suite 1800  
Chicago, Illinois 60602

**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 Respondents' 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 Respondents 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 Respondents 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 Respondents' payment of the \$1,000.00 penalty, their commitment to cease and desist as contained in Section V.D.3 above, and upon the Board's approval of this Stipulation, the Complainant releases, waives and discharges the Respondents 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 Complaint filed on December 6, 2011. The Complainant reserves, and this Stipulation is without prejudice to, all rights of the

State of Illinois against the Respondents 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 Respondents'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 may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315, or entity other than the Respondents.

**F. Enforcement 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 the Stipulation request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

FOR THE COMPLAINANT:

PEOPLE OF THE STATE OF ILLINOIS

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

LISA MADIGAN  
Attorney General  
State of Illinois

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

BY: Matthew J. Dunn  
MATTHEW J. DUNN, Chief

BY: [Signature]  
JOHN J. KIM, Interim Director

DATE: 5/14/12

DATE: 5/8/12

FOR THE RESPONDENTS:

KIMBLE SEPTIC, INC.

CLEVELAND KIMBLE

BY: \_\_\_\_\_

BY: \_\_\_\_\_

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

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

RECEIVED  
ATTORNEY GENERAL

APR 18 2012

FOR THE COMPLAINANT:

PEOPLE OF THE STATE OF ILLINOIS

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

ENVIRONMENTAL

LISA MADIGAN  
Attorney General  
State of Illinois

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

BY: \_\_\_\_\_  
MATTHEW J. DUNN, Chief

BY: \_\_\_\_\_  
JOHN J. KIM, Interim Director

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

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

FOR THE RESPONDENTS:

KIMBLE SEPTIC, INC.

CLEVELAND KIMBLE

Cleveland Kimble

Cleveland Kimble

BY: Kimble Septic, INC.

DATE: 4-17-12

DATE: 4-17-12