

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
by LISA MADIGAN, Attorney General)	
of the State of Illinois,)	
)	
Complainant,)	
)	
v.)	PCB No. 11-79
)	(Enforcement - Water)
INVERSE INVESTMENTS, L.L.C.,)	
an Illinois limited liability company,)	
)	
Respondent.)	

NOTICE OF FILING

To: **VIA EMAIL**


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 Kristin Laughridge Gale
 Nijman Franzetti LLP
 10 S. LaSalle Street, Suite 3600
 Chicago, IL 60603
 jn@nijmanfranzetti.com
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Bradley P. Halloran
 Hearing Officer
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John T. Therriault
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PLEASE TAKE NOTICE that on December 9, 2016, the Complainant filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the Stipulation and Proposal for Settlement and Motion for Relief from Hearing Requirement, copies of which are attached hereto and hereby served upon you. Financing may be available, through the Illinois Environmental Facilities Financing Act, to correct the violations alleged in the Complaint.

PEOPLE OF THE STATE OF ILLINOIS,
ex rel. LISA MADIGAN, Attorney General
 of the State of Illinois

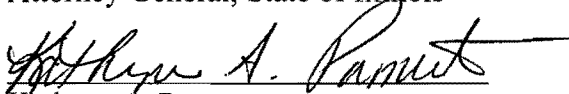
By 
 Kathryn A. Pamerter
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31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2014).

Respectfully submitted,

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

BY:



Kathryn A. Pamerter

Assistant Attorney General

Environmental Bureau

Illinois Attorney General's Office

69 W. Washington Street, Suite 1800

Chicago, Illinois 60602

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the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2010), 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 (2014).

3. At all times relevant to the Complaint, the Respondent was and is an Illinois limited liability company authorized to transact business in the State of Illinois. The Respondent owned and continues to own the property located at 3004 West Route 120 (Elm Street), McHenry, McHenry County, Illinois ("Site").

B. Allegations of Non-Compliance

The Complainant contends that the Respondent has violated the following provision of the Act:

Count I: Water Pollution
Violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2010).

C. Non-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

1. In October 2003, the Illinois EPA received an application to enroll the Site into the Illinois EPA Site Remediation Program ("SRP"), and the previous Site owner submitted to the Illinois EPA a "Focused Site Investigation Report for 3004 West Elm Street, McHenry: Part of the Southwest Quarter of Section 25, Township 45 North, Range 8 East, McHenry County,

Illinois” (the “Focused Site Investigation Report”). In December 2003, the Illinois EPA denied the Focused Site Investigation Report.

2. In March 2006, the Respondent submitted a Supplemental Site Investigation Report to the Illinois EPA. In August 2006, the Illinois EPA conditionally approved the Supplemental Site Investigation Report.

3. In February 2007, the Respondent submitted to the Illinois EPA a “Remedial Objectives Report and Remedial Action Plan” (the “RAP”). In August 2007, the Illinois EPA approved the RAP.

4. In August 2008, as part of the SRP, the Respondent conducted an active Site remediation in accordance with the Illinois EPA-approved RAP. In addition, the Respondent conducted ten (10) rounds of groundwater sampling from onsite groundwater monitoring wells between 2009 and 2013. Results of each round were submitted to the Illinois EPA.

5. In March 2016, the Respondent installed three new soil borings in the area where remediation had been conducted and performed a groundwater investigation of Site monitoring wells. The Respondent also repaired and resurveyed the monitoring wells. Soil sample results indicated concentrations in the vadose zone were all below TACO Tier 1 soil remediation objectives. Groundwater data indicated that there was an overall decrease in chlorinated solvent detections when compared to the 2013 results.

6. In June 2016, the Respondent submitted to the Illinois EPA an Additional Site Investigation and Soil-Gas Sampling Plan to present the results of recent sampling data; a potable well survey; a proposed soil gas survey; and proposed institutional controls.

7. By letter dated August 16, 2016, the Illinois EPA provided comments to the Additional Site Investigation and Soil-Gas Sampling Plan.

II. APPLICABILITY

This Stipulation shall apply to and be binding upon the Parties to the Stipulation. 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, managers, members, 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 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 (2014).

The Respondent shall notify each contractor to be retained to perform work required in this Stipulation of each of the requirements of this Stipulation relevant to the activities to be performed by that contractor, including all relevant work schedules and reporting deadlines, and shall provide a copy of this Stipulation to each contractor already retained no later than thirty (30) calendar days after the date of entry of this Stipulation. In addition, the Respondent shall provide copies of all schedules for implementation of the provisions of this Stipulation to the prime vendor(s) supplying the control technology systems and other equipment required by this Stipulation.

No change in ownership, corporate status or operator of the Site shall in any way alter the responsibilities of the Respondent under this Stipulation. In the event that the Respondent proposes to sell or transfer any real property or operations subject to this Stipulation, prior to completion of its obligations hereunder, the Respondent shall notify the Complainant thirty (30) calendar days prior to the conveyance of title, ownership or other interest. The Respondent shall make as a condition of any such sale or transfer, that the purchaser or successor provide to the

Respondent site access and all cooperation necessary for the Respondent to perform to completion any compliance obligation(s) required by this Stipulation. The Respondent shall provide a copy of this Stipulation to any such successor in interest and the Respondent shall continue to be bound by and remain liable for performance of all obligations under this Stipulation. In appropriate circumstances, however, the Respondent and a proposed purchaser or operator of the Site may jointly request, and the Complainant, in its discretion, may consider modification of this Stipulation to obligate the proposed purchaser or operator to carry out future requirements of this Stipulation in place of, or in addition to, the Respondent.

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

Section 33(c) of the Act, 415 ILCS 5/33(c) (2014), 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. Prior to the Respondent's ownership of the Site, which was obtained through an inheritance, a dry cleaning operation that utilized dry cleaning solvents existed at the Site. The

soil and groundwater at the Site continues to have detections of chlorinated volatile organic compounds (“VOCs”), which are commonly found in dry cleaning solvents; the Complainant alleges this threatens human health and the environment. VOCs were discovered in the soil and groundwater by the prior owner in or about 2003.

2. There is a social and economic benefit to the Site.
3. Operation of the Site was and is suitable for the area in which it is located.
4. Reducing or eliminating the soil and groundwater contamination located at the Site is both technically practicable and economically reasonable.
5. The Respondent has been remediating, and will continue to remediate, the Site so as to achieve compliance with the Act.

IV. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h) (2014), 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;
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; and
8. whether the respondent has 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. Prior to the Respondent's ownership of the Site, which was obtained through an inheritance, a dry cleaning operation that utilized dry cleaning solvents existed at the Site. The soil and groundwater at the Site continues to have detections of chlorinated volatile organic compounds ("VOCs"), which are commonly found in dry cleaning solvents; the Complainant alleges this threatens human health and the environment. VOCs were discovered in the soil and groundwater by the prior owner in or about 2003.

2. Upon taking ownership of the Site, the Respondent has been diligent in attempting to return the Site to compliance with the Act.

3. The Respondent has performed remediation work at the Site as part of the Illinois EPA's voluntary Site Remediation Program. The Respondent reports that it has spent approximately \$250,000.00 on remediation efforts addressing on-Site contamination. Any economic benefit obtained by the Respondent is accounted for in the \$500.00 civil penalty that the Respondent has agreed to pay in this matter.

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

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

6. A prior owner of the Site disclosed the contamination to the Illinois EPA by submitting a Site Remediation Program application to the Illinois EPA dated September 26, 2003, which the Illinois EPA received on October 6, 2003. As a result, self-disclosure is not an issue in this case.

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

8. On November 30, 2009, the Respondent submitted a Compliance Commitment Agreement, which the Illinois EPA rejected on December 16, 2009.

V. TERMS OF SETTLEMENT

A. Civil Penalty Payment

1. The Respondent shall pay a civil penalty in the sum of Five Hundred Dollars (\$500.00) 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 complete any activity or fails to comply with any response or reporting requirement by the date specified in this Stipulation, the Respondent shall provide notice to the Complainant of each failure to comply with this Stipulation and shall pay stipulated penalties in the amount of \$150.00 per day until such time that compliance is achieved. The Complainant may make a demand for stipulated penalties upon the Respondent for its noncompliance with this Stipulation. However, failure by the Complainant to make this demand shall not relieve the Respondent of the obligation to pay stipulated penalties. All stipulated penalties shall be payable within thirty (30) calendar days of the date the Respondent

knows or should have known of its noncompliance with any provision of this Stipulation.

2. 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.

3. 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.

4. 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 and case 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:

Kathryn A. Pamerter
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602

D. Future Compliance

1. **Amended Remedial Objectives Report/Remedial Action Plan.**

a. In order to meet the deadline set forth in D.1.b. below, the Respondent shall develop the necessary information to prepare an Amended Remedial Objectives Report/Remedial Action Plan (“Amended ROR/RAP”), consisting of the following actions:

i. In order to evaluate the Indoor Air Inhalation Pathway, the Respondent shall install two (2) on-Site and one (1) off-Site soil gas probes at the Site to facilitate collection of soil gas samples. The samples shall be collected in accordance with the Illinois EPA protocols, collected using a Summa Canister and submitted to an Illinois EPA- accredited laboratory for analyses. The soil gas samples will be tested for chlorinated volatile organic compounds (“VOCs”) using Method TO-15. The soil gas probes will be located pursuant to the sample location modifications provided in the Illinois EPA’s response letter dated August 16, 2016.

ii. As agreed by the Illinois EPA on September 8, 2016, in order to demonstrate compliance with the groundwater component of the groundwater ingestion pathway, the Respondent shall use the current onsite groundwater data

to perform groundwater modeling in accordance with the TACO regulations. The results of this model will determine the extent that impacted groundwater could potentially migrate from the Site before the groundwater concentrations meet the TACO Tier 1 Class I groundwater remediation objectives and the need for groundwater use restrictions.

iii. As agreed by the Illinois EPA in correspondence of September 21, 2016, the Respondent may establish that the soil at the Site with the potential soil saturation limit exceedance is consistently below the groundwater table and address the soil saturation limit based on groundwater solubility.

b. Based on the results of the work in Paragraph V.D.1.a, within one hundred and twenty (120) days of the date of the Board's approval and entry of this Stipulation, the Respondent shall prepare and submit an Amended ROR/RAP to the Illinois EPA, for review and approval, that meets the applicable requirements of 35 Ill. Adm. Code Part 740 Subpart D and that proposes a detailed schedule for implementation.

c. Based on and consistent with the data as described in Paragraph V.D.1.a. and 35 Ill. Adm. Code 740 Subpart E, the Illinois EPA shall either approve, approve with conditions or disapprove the Amended ROR/RAP in writing:

i. If the Illinois EPA approves the Amended ROR/RAP without any conditions (or as revised pursuant to Paragraph V.D.1.b.ii. below), within ninety (90) days of the date of such written approval, the Respondent shall implement such approved plan in accordance with the terms contained therein and the approved schedule, including any modifications thereto and consistent with the Illinois EPA-approved remediation objectives and Paragraph V.D.1.a.

ii. If the Illinois EPA approves with conditions or disapproves the Amended ROR/RAP, the Respondent shall, within the time set forth in the Illinois EPA's written approval with conditions or disapproval, submit a response to the Illinois EPA that addresses all conditions or deficiencies identified by the Illinois EPA. If the Illinois EPA approves with conditions or disapproves the response, the Respondent shall, within the time set forth in the Illinois EPA's written approval with conditions or disapproval, submit a second response to the Illinois EPA that addresses all conditions or deficiencies identified by the Illinois EPA or invoke Dispute Resolution pursuant to Section V.F. of this Stipulation.

d. If at any time the Illinois EPA or the Respondent determines that further modifications to the approved Amended ROR/RAP are necessary for achieving the Illinois-EPA approved remediation objectives based on and consistent with the data as described in Paragraph V.D.1.a., the Respondent shall submit a modified Plan or revision, as applicable, to the Illinois EPA within (a) thirty (30) calendar days of such determination by the Respondent or (b) forty-five (45) calendar days from the date of the Illinois EPA's letter notifying the Respondent that it must submit a modified Amended ROR/RAP. The modified Plan or revision shall propose a schedule for its implementation. The procedures set forth in Paragraph V.D.1.b. shall apply to any modified Plan or revision submitted to the Illinois EPA.

2. **Remedial Action Completion Report.**

a. Within two hundred seventy (270) calendar days of the Illinois EPA's written approval of the Amended ROR/RAP, as may be modified, the Respondent shall submit to the Illinois EPA pursuant to Section V.H. herein, for its review and approval

consistent with 35 Ill. Adm. Code Part 740 Subpart E, a Remedial Action Completion Report ("RACR") in accordance with the applicable requirements of 35 Ill. Adm. Code Part 740 Subpart D.

b. The Illinois EPA reserves the right to disapprove the RACR if, among other things, (a) the Respondent fails to implement the Illinois EPA-approved Amended ROR/RAP, as may be modified, or (b) the Illinois EPA-approved remediation objectives for the Site set forth in the Amended ROR/RAP are not met.

c. The procedures set forth in Paragraph V.D.1.b. shall apply to any RACR submitted to the Illinois EPA.

d. Upon the Illinois EPA's written approval of the RACR as may be modified or revised, the Illinois EPA shall issue a No Further Remediation Letter applicable to the Site, as provided in 35 Ill. Adm. Code Part 740 Subpart F.

3. **Cost Recovery.**

a. *Oversight Costs Between October 1, 2006 and June 30, 2016.* The Respondent shall pay the outstanding costs incurred by the Illinois EPA between October 1, 2006 and June 30, 2016 in the amount of \$9,971.17 as follows:

\$3,000.00-Within 60 days of the Board's approval and entry of the Stipulation;
\$3,000.00-Within 120 days of the Board's approval and entry of the Stipulation;
\$3,000.00-Within 180 days of the Board's approval and entry of the Stipulation;
\$971.17-Within 240 days of the Board's approval and entry of the Stipulation.

All payments shall be made by certified check or money order made payable to the Illinois EPA for deposit into the Hazardous Waste Fund. The case name, case number, LPC #1110605163, and LP52 X86 shall appear on the face of the certified check or money order.

b. *Oversight Costs After July 1, 2016.* The Respondent shall reimburse the

Illinois EPA for all reasonable costs that have been or will be incurred and documented by the Illinois EPA in its oversight of the investigation of the Site, and its review and evaluation of documents and reports submitted to it pursuant to this Stipulation, including, but not limited to, all costs associated with Community Relations activities (“Response Costs”). Response Costs shall mean all unpaid and reasonable costs incurred by the Illinois EPA on and after July 1, 2016. Response Costs shall include all unpaid and reasonable direct program costs, allocated program costs and indirect costs incurred by the Illinois EPA on and after July 1, 2016.

i. Direct program costs shall include, but are not limited to, all related payroll costs for all applicable organizational units, outside contractor/consultants fees, travel costs, and costs associated with photographs, maps, and laboratory services.

ii. Allocated program costs represent program costs that are related to the overall program operations, including but not limited to, fiscal services, bill preparation and clerical duties, Division of Legal Counsel program meetings and regulatory preparation and implementation, and staff program meetings and management oversight for the Bureau of Land, Bureau of Water, Office of Emergency Response, Toxicity Assessment Unit, and Office of Community Relations.

iii. Indirect costs are those costs incurred by the Illinois EPA in day-to-day operations, including but not limited to, the operation and maintenance of buildings, utilities and administrative costs.

b. The Illinois EPA will submit to Respondent on a quarterly basis invoices

for Response Costs incurred during the billing period.

i. Within forty-five (45) calendar days of the receipt of each invoice, the Respondent shall pay, unless contested pursuant to Section V.F. (Dispute Resolution) of this Stipulation, the Response Costs detailed therein by means of a certified or cashier's check or checks made payable to the Illinois Environmental Protection Agency for deposit into the Hazardous Waste Fund.

ii. The case name, case number, LPC #1110605163, and LP52X86 shall appear on the face of the certified or cashier's check(s). The Respondent shall send each check and a copy of the Illinois EPA invoice to:

Division of Administration
Fiscal Services Section
Illinois EPA
1021 North Grand Avenue East
P. O. Box 19276
Springfield, Illinois 62794-9276

iii. The Illinois EPA's failure to send an invoice to the Respondent in the time frame indicated in Paragraph V.D.3., does not relieve the Respondent of its obligation to pay all outstanding Response Costs, and does not constitute a waiver of the Illinois EPA's right to submit an invoice or receive reimbursement for Response Costs.

iv. A copy of the certified or cashier's check(s) and the transmittal letter shall be sent to:

Kathryn A. Pamerter
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602

v. The dispute resolution procedures set forth in Section V.F. of this Stipulation shall be the exclusive mechanism for resolving disputes regarding the Respondent's obligation to reimburse the Illinois EPA for its Response Costs.

4. *Access.* 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 Site, at all reasonable times for the purposes of conducting inspections and evaluating compliance with this Stipulation. 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.

5. 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.

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

E. *Force Majeure*

1. *Force majeure* is an event arising solely beyond the control of the Respondent, which prevents the timely performance of any of the requirements of this Stipulation and shall include, but is not limited to, events such as floods, unusual weather, fires, tornadoes, other natural disasters, and labor disputes beyond the reasonable control of the Respondent. An increase in costs associated with implementing any requirement of this Stipulation shall not, by itself, excuse the Respondent for a failure to comply with such a requirement.

2. When a *force majeure* event occurs which causes or may cause a delay in the performance of any of the requirements of this Stipulation, the Respondent shall orally notify the

Illinois EPA (Andrew Catlin at 217-524-3290) within seventy-two (72) hours of the occurrence. Written notice shall be given to the Complainant's representatives as listed in Section V.H of this Stipulation as soon as practicable, but no later than ten (10) calendar days after the claimed occurrence. This section shall be of no effect as to the particular event involved if the Respondent fails to comply with these notice requirements.

3. Within ten (10) calendar days of receipt of any written force majeure notice, the Complainant shall respond in writing regarding the Respondent's claim of a delay or impediment to performance. If the Complainant agrees that the delay or impediment to performance has been or will be caused by circumstances beyond the control of the Respondent and that the Respondent could not have prevented the delay by the exercise of due diligence, the parties shall stipulate to an extension of the required deadline(s) for all requirement(s) affected by the delay, by a period equivalent to the delay actually caused by such circumstances. Such stipulation may be filed as a modification to this Stipulation. The Respondent shall not be liable for stipulated penalties for the period of any such stipulated extension.

4. If the Complainant does not accept the Respondent's claim of a force majeure event, the Respondent must file a petition with the Board within twenty (20) calendar days of receipt of the Complainant's determination in order to contest the imposition of stipulated penalties. The Complainant shall have twenty (20) calendar days to file its response to said petition. The burden of proof of establishing that a force majeure event prevented the timely performance shall be upon the Respondent. If this Board determines that the delay or impediment to performance has been or will be caused by circumstances solely beyond the control of the Respondent and that the Respondent could not have prevented the delay by the exercise of due diligence, the Respondent shall be excused as to that event (including any

imposition of stipulated penalties), for all requirements affected by the delay, for a period of time equivalent to the delay or such other period as may be determined by this Board.

F. Dispute Resolution

1. Except as provided herein, the Parties to the Stipulation may seek to informally resolve disputes arising under this Stipulation, including but not limited to the Illinois EPA's decision regarding appropriate or necessary response activity, approval or denial of any report, plan or remediation objective, or the Complainant's rejection of a request for modification or termination of the Stipulation. The Complainant reserves the right to seek enforcement by the Board where the Respondent has failed to satisfy any compliance deadline within this Stipulation. The following are also not subject to the dispute resolution procedures provided by this section: a claim of *force majeure*, a failure to make any required payment and any circumstances posing a substantial danger to the environment or to the public health or welfare of persons.

2. The dispute resolution procedure must be invoked by a party through a written notice describing the nature of the dispute and the party's position with regard to such dispute. The other party shall acknowledge receipt of the notice and schedule a meeting to discuss the dispute informally not later than fourteen (14) calendar days from the receipt of such notice. These informal negotiations shall be concluded within thirty (30) calendar days from the date of the first meeting between the parties, unless the parties agree, in writing, to shorten or extend this period. The invocation of dispute resolution, in and of itself, shall not excuse compliance with any requirement, obligation or deadline contained herein, and stipulated penalties may be assessed for failure or noncompliance during the period of dispute resolution. As part of the resolution of any dispute, the Parties to the Stipulation, by agreement or by order of this Board,

may extend or modify the schedule for completion of work under this Stipulation to account for the delay in the work that occurred as a result of dispute resolution.

3. In the event that the parties are unable to reach agreement during the informal negotiation period, the Complainant shall provide the Respondent with a written summary of its position regarding the dispute. The position advanced by the Complainant shall be considered binding unless, within twenty (20) calendar days of the Respondent's receipt of the written summary of the Complainant's position, the Respondent files a petition with this Board seeking judicial resolution of the dispute. The Complainant shall respond to the petition by filing the administrative record of the dispute and any argument responsive to the petition within twenty (20) calendar days of service of Respondent's petition. The administrative record of the dispute shall include the written notice of the dispute, any responsive submittals, the Complainant's written summary of its position, the Respondent's petition before the Board and the Complainant's response to the petition. The Complainant's position shall be affirmed unless, based upon the administrative record, it is against the manifest weight of the evidence.

G. Release from Liability

In consideration of the Respondent's payment of the \$500.00 penalty, its commitment to cease and desist as contained in Section V.D.6 above, 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 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 the Complainant's Complaint filed on May 4, 2011. 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 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.

H. Correspondence, Reports and Other Documents

Any and all correspondence, reports and any other documents required under this Stipulation, except for penalty payments, shall be submitted as follows:

As to the Complainant

Kathryn A. Pamerter
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602

Michelle Ryan
Assistant Counsel
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

Andrew Catlin
Bureau of Land
Illinois Environmental Protection Agency

1021 North Grand Avenue East
Springfield, Illinois 62794-9276
(217) 524-3300
Andrew.Catlin@illinois.gov
(2 Hard Copies; 1 Electronic Copy)

As to the Respondent

Jennifer T. Nijman
Nijman Franzetti LLP
10 S. LaSalle Street, Suite 3600
Chicago, Illinois 60603

I. Enforcement and Modification of Stipulation

1. 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.

2. The Parties to the Stipulation 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 V.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 the Parties to the Stipulation.

J. 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.

[Remainder of Page Blank; Text Continues on Page 22]

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

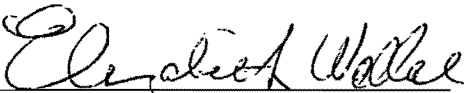
PEOPLE OF THE STATE OF ILLINOIS

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

LISA MADIGAN
Attorney General
State of Illinois

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

ALEC MESSINA, Acting Director
Illinois Environmental Protection Agency

BY: 
ELIZABETH WALLACE, Chief
Assistant Attorney General
Environmental Bureau

BY: _____
JOHN J. KIM
Chief Legal Counsel

DATE: 12-8-16

DATE: _____

INVERSE INVESTMENTS, L.L.C.

Its: _____

DATE: _____

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DATE: 12 | 8 | 16 _____

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Environmental Bureau

BY: _____
JOHN J. KIM
Chief Legal Counsel

DATE: _____

DATE: _____

INVERSE INVESTMENTS, L.L.C.


Its: _____
mgn

DATE: 12/7/16

CERTIFICATE OF SERVICE

I, Kathryn A. Pamerter, an Assistant Attorney General, certify that on the 9th day of December, 2016, I caused to be served via e-mail, the foregoing Notice of Filing, Stipulation and Proposal for Settlement and Motion for Relief from Hearing Requirement to the persons named on the Notice of Filing.



Kathryn A. Pamerter
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
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Chicago, Illinois 60602
(312) 814-0608
KPamerter@atg.state.il.us