

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

MATHER INVESTMENT	)	
PROPERTIES, L.L.C.,	)	
	)	
Complainant,	)	
	)	
v.	)	Case No. 05-29
	)	
ILLINOIS STATE TRAPSHOOTERS	)	
ASSOCIATION, INC.,	)	
	)	
Respondent.	)	

**FIRST AMENDED COMPLAINT**

NOW COMES Complainant Mather Investment Properties, L.L.C., an Illinois Limited Liability Company, by and through its attorneys, Sorling, Northrup, Hanna, Cullen & Cochran, R. Gerald Barris and Charles J. Northrup, of counsel, and for its First Amended Complaint against Respondent Illinois Trapshooters Association, Inc., states as follows:

1. Panther Creek Office Park, LLC (hereinafter PANTHER CREEK) is an Illinois Limited Liability Company located in Springfield, Illinois.
2. Mather Investment Properties LLC (hereinafter MATHER) is an Illinois Limited Liability Company located in Springfield, Illinois.
3. Respondent Illinois State Trapshooters Association, Inc. (hereinafter TRAPSHOOTERS) is an Illinois not-for-profit corporation.
4. On or about October 13, 1998 PANTHER CREEK entered into a contract to purchase approximately 64 acres of real estate in Sangamon County, Illinois (hereinafter the PROPERTY) from TRAPSHOOTERS, located southwest of the City of Springfield, Illinois, generally at the

intersection of Interstate 72 and Illinois Route 4, commonly known as 3006 Mathers Road, and legally described as:

The South 3.88 acres of the East Half of the Southeast Quarter of Section 13;

The Northeast Quarter of the Northeast Quarter of Section 24; EXCEPTING THEREFROM a 0.102 acre tract conveyed to the State of Illinois, Department of Transportation, by Warranty Deed dated May 6, 1994, and recorded June 27, 1994 as Document No. 94-26746;

The South 3.91 acres of West Half of the Southeast Quarter of said Section 13;

The Northwest Quarter of Northeast Quarter of said Section 24; All in township 15 North, Range 6 West of the Third Principal meridian in Curran Township;

Situated in Sangamon County, Illinois.

5. On or about August 24, 1999, PANTHER CREEK, TRAPSHOOTERS and MATHER amended the contract and confirmed its assignment to MATHER.

6. MATHER has performed all of its obligations under the contract and took title to the PROPERTY on September 28, 2000.

7. At times known better by TRAPSHOOTERS, but since the 1930's, an outdoor gun shooting range, more recently known as the Mather Gun Club, operated on the PROPERTY.

8. At times known better by TRAPSHOOTERS, but at least between 1988 and 1998, TRAPSHOOTERS owned the PROPERTY and operated it as an outdoor gun shooting range.

9. During the TRAPSHOOTERS ownership and operation of the PROPERTY, lead shot, as well as broken clay targets, were discharged, deposited, and otherwise come to be located on the PROPERTY as a result of activities at the outdoor gun shooting range.

10. Prior to September, 1998, TRAPSHOOTERS had been considering selling the PROPERTY for development and had stopped using the property as an outdoor shooting range.

11. For over a decade prior to September, 1998, Trapshooters intentionally left and abandoned broken clay targets and lead shot in the soil and rented the property to be farmed and had the land and clay targets tilled into the soil each year.

12. Prior to September, 1998 TRAPSHOOTERS retained an environmental consultant to prepare a Phase I environmental assessment of the PROPERTY. In September, 1998, such an environmental assessment was prepared. Despite the use of the PROPERTY as a gun range for approximately more than 50 years, that assessment identified no "recognized environmental condition" associated with the PROPERTY.

13. In or about September, 1998, the Phase I environmental assessment identified above in paragraph twelve was provided to MATHER as evidence of the environmental condition of the PROPERTY.

14. Based upon the representation in the TRAPSHOOTERS' Phase I environmental assessment that there were no "recognized environmental conditions" at the PROPERTY, MATHER, as noted above in paragraph eleven, purchased the PROPERTY for commercial development.

15. On August 17, 2001, the Illinois Environmental Protection Agency sent a letter to MATHER informing it that any development or construction on the PROPERTY would be a new use of the PROPERTY, and taken in combination with the contamination resulting from activities at the former shooting range, could pose an unacceptable risk to human health and/or the environment. (A true and exact copy of the IEPA letter is attached as Exhibit 1.)

16. Subsequent to receipt of the August 17, 2001 letter from the Illinois EPA, MATHER retained an independent and qualified environmental consultant to delineate the scope and extent of the presence of lead fragments, broken clay targets, and associated contamination, address concerns

with the Illinois EPA, and develop a remedial plan for the PROPERTY. To date, MATHER has incurred costs to this consultant (not including subcontractors or analytical costs) in excess of \$ 180,000.

17. Subsequent to the receipt of the August 17, 2001 letter from the Illinois EPA, MATHER'S environmental consultant identified a "shot fall zone" across the length of the PROPERTY which contains lead fragments, broken clay targets, and associated contamination. This "shot fall zone" represents approximately 30 acres of the entire 64 acre property.

18. In or about July, 2002, and with the consent of the Illinois EPA, MATHER caused and paid for the surface soil of the "shot fall zone" to be "mined" for lead resulting in the collection of approximately 161,000 lbs of lead fragments. The cost of this activity was approximately \$103,000. Additional lead fragments and associated contamination remains on-site.

19. In or about July, 2002, and at the request of the Illinois EPA, MATHER caused and paid for the removal of broken clay targets on a portion of the PROPERTY. The cost of this activity was approximately \$ 30,000. Additional broken clay targets may remain on-site.

20. As of the filing of this Complaint, no development of any kind has taken place on the PROPERTY.

### **COUNT I**

#### **(415 ILCS 5/21(e) - Waste Abandonment)**

1-20. Complainant hereby realleges and restates the allegations of paragraphs one through 20 of the General Allegations above as paragraphs one through 20 of this Count I.

21. Section 21(e) of the Act provides that:

No person shall:

(e) Dispose, treat, store or abandon any waste, or transport any waste into this State for disposal, treatment, storage or abandonment, except at a site or facility which meets the requirements of this Act and of regulations and standards thereunder.

415 ILCS 5/21(e).

22. Section 3.53 of the Act defines “waste” as follows:

“WASTE” means any garbage, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility or other discarded material, including solid, liquid, semi-solid or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows, or coal combustion by-products as defined in Section 3.94, or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as now or hereafter amended, or source, special nuclear, or by-product materials as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 921) or any solid or discharged material from any facility subject to Federal Surface Mining Control and Reclamation Act of 1977 or the rules and regulations thereunder or any law or rule or regulation adopted by the State of Illinois pursuant thereto.

23. The lead fragments, broken clay targets, and associated contamination currently existing on the PROPERTY, and existing at the time of the transfer of the PROPERTY, constitute “waste.”

24. Section 3.215 of the Act defines “hazardous substance” as:

“Hazardous substance” means: (A) any substance designated pursuant to Section 311(b)(2)(A) of the Federal Water Pollution Control Act (P.L. 92-500), as amended, (B) any element, compound, mixture, solution, or substance designated pursuant to Section 102 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (P.L. 96-510, as amended), (C) any hazardous waste, (D) any toxic pollutant listed under Section 307(a) of the Federal Water Pollution Control Act (P.L. 92-500) as amended, (E) any hazardous air pollutant listed under Section 112 of the Clean Air Act (P.L. 95-95), as amended, (F) any imminently hazardous chemical substance or mixture with respect to which the Administrator of the U.S.

Environmental Protection Agency has taken action pursuant to Section 7 of the Toxic Substances Act (P.L. 943-469), as amended. The term does not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of this paragraph, and the term does not include natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel or mixtures of natural gas and such synthetic gas.

25. The lead fragments and associated contamination currently existing on the PROPERTY, and existing at the time of the transfer of the PROPERTY, constitutes "hazardous substances."

26. Section 3.185 of the Act defines "Disposal" as:

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste or hazardous waste into or on any land or water or into any well so that such waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

27. TRAPSHOOTERS, by placing, discharging, depositing and otherwise allowing the lead, target fragments and other contamination to remain at the PROPERTY, disposed of such waste at the PROPERTY.

28. By ceasing use of the property as an outdoor shooting range and/or transferring the PROPERTY to MATHER as described above in paragraphs four and five, and/or allowing the lead, target debris, and associated contamination to remain on the PROPERTY, TRAPSHOOTERS abandoned the lead fragments, broken clay targets, and associated contamination existing on the PROPERTY.

29. At the time the TRAPSHOOTERS disposed and/or abandoned the waste at the PROPERTY, the PROPERTY was not permitted by the Illinois EPA as a waste disposal, treatment or storage site and thus did not meet any requirements of the Act or regulations or standard promulgated thereunder.

WHEREFORE, for the above reasons, Complainant MATHER respectfully requests that this Board enter an Order on this Count I declaring, adjudging and decreeing as follows:

(a) That Respondent TRAPSHOOTERS violated Section 21(e) of the Illinois Environmental Protection Act (415 ILCS 5/21(e));

(b) That pursuant to Section 42(a) of the Illinois Environmental Protection Act Respondent TRAPSHOOTERS shall pay a civil penalty of \$50,000 for each such violation;

(c) That pursuant to Section 42(a) of the Illinois Environmental Protection Act Respondent TRAPSHOOTERS shall pay an additional civil penalty of \$10,000 per day during which such violation continued;

(d) That Respondent TRAPSHOOTERS shall cease and desist from all further violations the Illinois Environmental Protection Act, and shall remediate any lead fragments, broken clay targets, and associated contamination remaining on the PROPERTY to levels appropriate under the Illinois Environmental Protection Act but no less stringent than TACO Tier One Residential Site Remediation Objectives as referenced in 35 Ill. Adm. Code Part 742;

(e) That Respondent TRAPSHOOTERS shall take any other remedial action in response to the presence of lead fragments, broken clay targets, and associated contamination that this Board deems reasonable and appropriate;

(f) That Respondent shall reimburse MATHER for all remedial action costs that MATHER has incurred or will incur as a result of the lead fragments, broken clay targets, and associated contamination, on the PROPERTY including but not limited to:

- (i) costs of investigation;
- (ii) costs of soil removal and disposal;
- (iii) costs of prior lead "mining" and other remedial actions;
- (iv) costs of any future monitoring or remediation if necessary.

(g) That Complainant MATHER shall be entitled to recover all other relief that the Board deems just and proper in this case.

**COUNT II**

**(415 ILCS 5/21(d)(2) - Waste Disposal Regulatory Violations**

1-20. Complainant hereby realleges and incorporates the allegations of paragraphs 1 through 20 of the General Allegations above as paragraphs 1 through 20 of this Count II.

21. Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2), provides that:

No person shall:

\* \* \*

(d) Conduct any waste-storage, waste-treatment, or waste-disposal operation:

(2) in violation of any regulations or standards adopted by the Board under this Act.

415 ILCS 5/21(d)(2).

22. 35 Ill. Admin. Code § 815.101(a) provides that:

The requirements of this Part [35 Ill. Admin. Code Part 815] are applicable to all landfills exempt from permits pursuant to Section 21(d) of the Environmental Protection Act (Act).

35 Ill. Admin. Code § 815.101(a).

23. 35 Ill. Admin. Code § 815.201 provides that:

All landfills regulated under this Part shall file an initial facility report with the Agency as specified in this Subpart to provide information concerning location and disposal practices of the facility.

35 Ill. Admin. Code § 815.201.

24. 35 Ill. Admin. Code § 815.301 provides that:



All landfills regulated under this Part shall file an annual report with the Agency. The first annual report shall be filed on the first of January that follows the year in which the initial facility report is filed, unless the Agency specified in writing an alternative filing date no later than one year after the initial facility report has been filed.

35 Ill. Admin. Code § 815.301.

25. 35 Ill. Admin. Code § 811.101(a) provides that:

The standards of this Part [35 Ill. Admin. Code Part 811] apply to all new landfills, except as otherwise provided in 35 Ill. Adm. Code 816 and 817, and except those regulated pursuant to 35 Ill. Adm. Code 700 through 749.

35 Ill. Admin. Code § 811.101(a).

26. 35 Ill. Admin. Code § 811.110(d)(1) provides that:

The operator shall maintain a written plan describing all actions that the operator will undertake to close the unit or facility in a manner that fulfills the provisions of the Act, of this Part and of other applicable Parts of 35 Ill. Adm. Code: Chapter I. The written closure plan shall fulfill the minimum information requirements of 35 Ill. Adm. Code 812.114.

35 Ill. Admin. Code § 811.110(d)(1).

27. 35 Ill. Admin. Code § 812.101(a) provides that:

All persons, except those specifically exempted by Section 21(d) of the Environmental Protection Act (Act) shall submit to the Agency an application for a permit to develop and operate a landfill. The applications must contain the information required by this Subpart and by Section 39(a) of the Act, except as otherwise provided in 35 Ill. Adm. Code 817.

35 Ill. Admin. Code § 812.101(a).

28. 35 Ill. Admin. Code § 810.103 defines “landfill” as follows:

“Landfill” means a unit or part of a facility in or on which waste is placed and accumulated over time for disposal, and which is not a land application unit, a surface impoundment, a dead animal disposal site or an underground injection well. For the purposes of this Part and 35 Ill. Adm. Code 811 through 815, landfills include waste piles, as defined in this Section.

35 Ill. Admin. Code § 810.103.

29. 35 Ill. Admin. Code § 810.103 defines “facility” as follows:

“Facility” means a site and all equipment and fixtures on a site used to treat, store or dispose of solid or special wastes. A facility consists of an entire solid or special waste treatment, storage or disposal operation. All structures used in connection with or to facilitate the waste disposal operation shall be considered a part of the facility. A facility may include, but is not limited to, one or more solid waste disposal units, buildings, treatment systems, processing and storage operations, and monitoring stations.

35 Ill. Admin. Code § 810.103.

30. 35 Ill. Admin. Code § 810.103 defines “unit” as follows:

“Unit” means a contiguous area used for solid waste disposal.

35 Ill. Admin. Code § 810.103.

31. The PROPERTY is a site used to dispose of solid waste, namely the lead and target fragments left, abandoned or otherwise placed on the property by TRAPSHOOTERS, and therefore constitutes a “facility” for purposes of 35 Ill. Admin. Code § 810-103.

32. The PROPERTY, or a portion thereof, is a contiguous area used for solid waste disposal, and thus constitutes a “unit” for purposes of 35 Ill. Admin. Code § 810.103.

33. The PROPERTY is not, nor has it been, a land application unit, a surface impoundment, a dead animal disposal site, or an underground injection well.

34. TRAPSHOOTERS, by abandoning, discarding and otherwise allowing the lead and target fragments to remain at the PROPERTY, placed waste at the PROPERTY for disposal.

35. The PROPERTY constitutes a landfill for purposes of 35 Ill. Admin. Code § 810.103, and 35 Ill. Admin. Code Part 815.

36. If the PROPERTY is exempt from the permit requirement of 415 ILCS 5/21(d), TRAPSHOOTERS did not file the initial facility report or annual reports for the PROPERTY as

required by 35 Ill. Admin. §§ 815.201 and 815.301, nor did TRAPSHOOTERS maintain a written closure plan for the PROPERTY as required by 35 Ill. Admin. Code § 811.110(d)(1), in violation of those regulations.

37. If the PROPERTY is not exempt from the permit requirement of 415 ILCS 5/21(d), TRAPSHOOTERS did not file an application for a permit to develop and operate a landfill, as required by 35 Ill. Admin. Code § 812.101(a), nor did TRAPSHOOTERS maintain a written closure plan as required by 35 Ill. Admin. Code § 811.110(d)(1), in violation of those regulations.

WHEREFORE, for the above reasons, Complainant MATHER respectfully requests that this Board enter an Order on this Count II declaring, adjudging and decreeing as follows:

(a) That Respondent TRAPSHOOTERS violated Section 21(d)(2) of the Illinois Environmental Protection Act (415 ILCS 5/21(d)(2));

(b) That pursuant to Section 42(a) of the Illinois Environmental Protection Act Respondent TRAPSHOOTERS shall pay a civil penalty of \$50,000 for each such violation;

(c) That pursuant to Section 42(a) of the Illinois Environmental Protection Act Respondent TRAPSHOOTERS shall pay an additional civil penalty of \$10,000 per day during which such violation continued;

(d) That Respondent TRAPSHOOTERS shall cease and desist from all further violations the Illinois Environmental Protection Act, and shall remediate any lead fragments, broken clay targets, and associated contamination remaining on the PROPERTY to levels appropriate under the Illinois Environmental Protection Act but no less stringent than TACO Tier One Residential Site Remediation Objectives as referenced in 35 Ill. Adm. Code Part 742;

(e) That Respondent TRAPSHOOTERS shall take any other remedial action in response to the presence of lead fragments, broken clay targets, and associated contamination that this Board deems reasonable and appropriate;

(f) That Respondent shall reimburse MATHER for all remedial action costs that MATHER has incurred or will incur as a result of the lead fragments, broken clay targets, and associated contamination, on the PROPERTY including but not limited to:

- (i) costs of investigation;
- (ii) costs of soil removal and disposal;
- (iii) costs of prior lead "mining" and other remedial actions;
- (iv) costs of any future monitoring or remediation if necessary.

(g) That Complainant MATHER shall be entitled to recover all other relief that the Board deems just and proper in this case.

### **COUNT III**

#### **(415 ILCS 5/21(d)(3) - Notice of Disposal Operations)**

1-20. Complainant hereby realleges and incorporates the allegations of paragraphs 1 through 20 of the General Allegations above as paragraphs 1 through 20 of Count III.

21. Section 21(d)(3) of the Act, 415 ILCS 5/21(d)(3), provides in relevant part that:

No person shall:

\* \* \*

- (d) Conduct any waste-storage, waste-treatment, or waste-disposal operation:

\* \* \*

- (3) which receives waste after August 31, 1988, does not have a permit issued by the Agency, and is (i) a landfill used exclusively for the disposal of waste generated at the site . . . without giving notice of the operation to the Agency by January 1, 1989, or 30 days after the date on which the

operation commences, whichever is later, and every 3 years thereafter . . .

415 ILCS 5/21(d)(3).

22. TRAPSHOOTERS, by abandoning, discarding and otherwise allowing the lead and target fragments to remain at the PROPERTY, placed contaminated material at the PROPERTY after August, 1988.

23. TRAPSHOOTERS conducted a waste-disposal operation at the PROPERTY after August, 1988.

24. TRAPSHOOTERS did not have a permit issued by the Agency to conduct a waste-disposal operation at the PROPERTY when they abandoned, discarded or otherwise placed contaminated debris at the PROPERTY.

25. If TRAPSHOOTERS disposed of only waste generated at the PROPERTY, TRAPSHOOTERS were required by Section 21(d)(3) of the Act, 415 ILCS 5/21(d)(3), to give notice of the operation of a waste-disposal operation to the Agency.

26. TRAPSHOOTERS did not give notice of the operation of a waste-disposal operation at the PROPERTY to the Agency.

27. If TRAPSHOOTERS disposed of only waste generated at the PROPERTY, TRAPSHOOTERS violated Section 21(d)(3) of the Act, 415 ILCS 5/21(d)(3), by failing to give notice of the operation of a waste-disposal operation at the PROPERTY to the Agency.

WHEREFORE, for the above reasons, Complainant MATHER respectfully requests that this Board enter an Order on this Count III declaring, adjudging and decreeing as follows:

(a) That Respondent TRAPSHOOTERS violated Section 21(e) of the Illinois Environmental Protection Act (415 ILCS 5/21(d)(3));

(b) That pursuant to Section 42(a) of the Illinois Environmental Protection Act Respondent TRAPSHOOTERS shall pay a civil penalty of \$50,000 for each such violation;

(c) That pursuant to Section 42(a) of the Illinois Environmental Protection Act Respondent TRAPSHOOTERS shall pay an additional civil penalty of \$10,000 per day during which such violation continued;

(d) That Respondent TRAPSHOOTERS shall cease and desist from all further violations the Illinois Environmental Protection Act, and shall remediate any lead fragments, broken clay targets, and associated contamination remaining on the PROPERTY to levels appropriate under the Illinois Environmental Protection Act but no less stringent than TACO Tier One Residential Site Remediation Objectives as referenced in 35 Ill. Adm. Code Part 742;

(e) That Respondent TRAPSHOOTERS shall take any other remedial action in response to the presence of lead fragments, broken clay targets, and associated contamination that this Board deems reasonable and appropriate;

(f) That Respondent shall reimburse MATHER for all remedial action costs that MATHER has incurred or will incur as a result of the lead fragments, broken clay targets, and associated contamination, on the PROPERTY including but not limited to:

- (i) costs of investigation;
- (ii) costs of soil removal and disposal;
- (iii) costs of prior lead "mining" and other remedial actions;
- (iv) costs of any future monitoring or remediation if necessary.

(g) That Complainant MATHER shall be entitled to recover all other relief that the Board deems just and proper in this case.

#### **COUNT IV**

**(415 ILCS 5/12(d) - Water Pollution Hazard)**

1. – 20. Complainant hereby realleges and restates the allegations of paragraphs one through twenty of the General Allegations above as paragraphs one through 20 of this Count IV.

21. Section 12(d) of the Act provides that:

No person shall:

(d) Deposit any contaminants upon the land in such a place and manner so as to create a water pollution hazard.

22. Section 3.165 of the Act defines “contaminant” as “any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.”

23. The lead fragments, broken clay targets, and associated contamination currently existing on the PROPERTY, and existing at the time of the transfer of the PROPERTY constitute “contaminants.”

24. A natural and constant waterway exists in the proximity of the PROPERTY to the west, and running the length, of the PROPERTY.

25. The lead fragments, broken clay targets, and associated contamination currently existing on the PROPERTY, and existing at the time of the transfer of the PROPERTY, are located such that those contaminants have the potential to cause water pollution as defined in the Act.

WHEREFORE, for the above reasons, Complainant MATHER respectfully requests that this Board enter an Order on this Count III declaring, adjudging and decreeing as follows:

(a) That Respondent TRAPSHOOTERS violated Section 12(d) of the Illinois Environmental Protection Act (415 ILCS 5/21(d);

(b) That pursuant to Section 42(a) of the Illinois Environmental Protection Act Respondent TRAPSHOOTERS shall pay a civil penalty of \$50,000 for each such violation;

(c) That pursuant to Section 42(a) of the Illinois Environmental Protection Act Respondent TRAPSHOOTERS shall pay an additional civil penalty of \$10,000 per day during which such violation continued;

(d) That Respondent TRAPSHOOTERS shall cease and desist from all further violations the Illinois Environmental Protection Act, and shall remediate any lead fragments, broken clay targets, and associated contamination remaining on the PROPERTY to levels appropriate under the Illinois Environmental Protection Act but no less stringent than TACO Tier One Residential Site Remediation Objectives as referenced in 35 Ill. Adm. Code Part 742;

(e) That Respondent TRAPSHOOTERS shall take any other remedial action in response to the presence of lead fragments, broken clay targets, and associated contamination that this Board deems reasonable and appropriate;

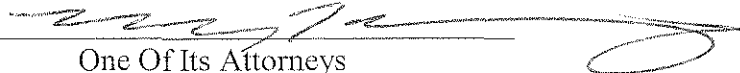
(f) That Respondent shall reimburse MATHER for all remedial action costs that MATHER has incurred or will incur as a result of the lead fragments, broken clay targets, and associated contamination, on the PROPERTY including but not limited to:

- (i) costs of investigation;
- (ii) costs of soil removal and disposal;
- (iii) costs of prior lead "mining" and other remedial actions;
- (iv) costs of any future monitoring or remediation if necessary.

(g) That Complainant MATHER shall be entitled to recover all other relief that the Board deems just and proper in this case.

Respectfully submitted,

MATHER INVESTMENT  
PROPERTIES, L.L.C., PLAINTIFF

By:   
One Of Its Attorneys



Sorling, Northrup, Hanna  
Cullen & Cochran, Ltd.  
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**PROOF OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing document was electronically filed with the Pollution Control Board:

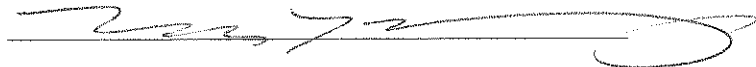
Dorothy M Gunn, Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
100 West Randolph Street  
Suite 11-500  
Chicago, Il. 60601

and served on the following by placing same in a sealed envelope addressed to:

Mr. Richard Ahrens  
Lewis, Rice & Fingersh  
500 N. Broadway  
Suite 2000  
St. Louis, MO 63102-2147  
Via Certified Mail

Mr. Fred Prillaman  
Mohan, Alewelt, Prillaman &  
Adami  
1 North Old State Capital  
Springfield, IL 62701-1323  
Via Certified Mail

and by depositing same in the United States mail in Springfield, Illinois, on the 30<sup>th</sup> day of November, 2006, with postage fully prepaid.

A handwritten signature in black ink, appearing to be "Dorothy M. Gunn", written over a horizontal line.