



RECEIVED
CLERK'S OFFICE

AUG 20 2007

STATE OF ILLINOIS
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

August 16, 2007

The Honorable Dorothy Gunn
Illinois Pollution Control Board
James R. Thompson Center, Ste. 11-500
100 West Randolph
Chicago, Illinois 60601

Re: **People v. Four S, LLC**
PCB

08-15

Dear Clerk Gunn:

Enclosed for filing please find the original and one copy of a Notice of Filing, Complaint, Motion for Relief from Hearing Requirement and Stipulation and Proposal for Settlement in regard to the above-captioned matter. Please file the originals and return file-stamped copies to me in the enclosed envelope.

Thank you for your cooperation and consideration.

Very truly yours,

Jennifer Bonkowski
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706
(217) 782-9031

JB/pjk
Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.)
)
FOUR S, LLC,)
a limited liability company,)
)
Respondent.)

PCB No. 08-15
(Enforcement - Water)

RECEIVED
CLERK'S OFFICE

NOTICE OF FILING

AUG 20 2007

STATE OF ILLINOIS
Pollution Control Board

To: William D. Barlow
Registered Agent
2 Club Center, Ste. 1
Edwardsville, IL 62025

Mark Weinheimer
Attorney at Law
100 South Fourth Street, Ste. 1100
St. Louis, MO 63102-1825

PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois, a COMPLAINT, MOTION FOR RELIEF FROM HEARING REQUIREMENT and STIPULATION AND PROPOSAL FOR SETTLEMENT, copies of which are attached hereto and herewith served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN,
Attorney General of the
State of Illinois

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

BY: Jennifer Bonkowski
JENNIFER BONKOWSKI
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: August 16, 2007

RECEIVED
CLERK'S OFFICE

AUG 20 2007

STATE OF ILLINOIS
Pollution Control Board

CERTIFICATE OF SERVICE

I hereby certify that I did on August 16, 2007, send by First Class Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instruments entitled NOTICE OF FILING, COMPLAINT, MOTION FOR RELIEF FROM HEARING REQUIREMENT and STIPULATION AND PROPOSAL FOR SETTLEMENT:

To: William D. Barlow
Registered Agent
2 Club Center, Ste. 1
Edwardsville, IL 62025

Mark Weinheimer
Attorney at Law
100 South Fourth Street, Ste. 1100
St. Louis, MO 63102-1825

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

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


JENNIFER BONKOWSKI
Assistant Attorney General

This filing is submitted on recycled paper.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.)
)
FOUR S, LLC,)
a limited liability company,)
)
Respondent.)

PCB No. 08-15
(Enforcement - Water)

RECEIVED
CLERK'S OFFICE

AUG 20 2007

MOTION FOR RELIEF FROM HEARING REQUIREMENT
STATE OF ILLINOIS
Pollution Control Board

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and pursuant to Section 31(c)(2) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(c)(2) (2006), moves that the Illinois Pollution Control Board grant the parties in the above-captioned matter relief from the hearing requirement imposed by Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2006). In support of this motion, Complainant states as follows:

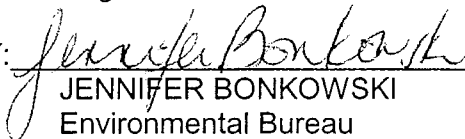
1. The parties have reached agreement on all outstanding issues in this matter.
2. This agreement is presented to the Board in a Stipulation and Proposal for Settlement, filed contemporaneously with this motion.
3. All parties agree that a hearing on the Stipulation and Proposal for Settlement is not necessary, and respectfully request relief from such a hearing as allowed by Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2006).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby requests that the Board grant this motion for relief from the hearing requirement set forth in Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2006).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS
LISA MADIGAN
ATTORNEY GENERAL

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

BY: 
JENNIFER BONKOWSKI
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: August 16, 2007

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.)
)
 FOUR S, LLC,)
 a limited liability company,)
)
 Respondent.)

PCB No. 08-15
(Water-Enforcement)

RECEIVED
CLERK'S OFFICE

AUG 20 2007

COMPLAINT

STATE OF ILLINOIS
Pollution Control Board

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, FOUR S, LLC, a limited liability company, as follows:

COUNT I
NPDES PERMIT VIOLATIONS

1. This Complaint is brought by the Attorney General on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2006).

2. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2006), and charged, *inter alia*, with the duty of enforcing the Act.

3. This Complaint is brought pursuant to Section 31 of the Act, 415 ILCS 5/31 (2006), after providing the Respondent with notice and the opportunity for a meeting with the Illinois EPA.

4. Four S, LLC, ("Four S") is the owner of a tract of land referred to as the Madison County Commons ("site"), a 13-acre tract of land located along Highway 159 and Glenwood

Drive in Madison County, Illinois. The closest water of the State is an unnamed tributary to the Cahokia Creek of the Mississippi River.

5. On August 25, 2003, the Illinois EPA issued coverage to Four S under the NPDES general stormwater permit.

6. Section 12 of the Act, 415 ILCS 5/12 (2006), provides the following prohibitions:

No person shall:

(a) Cause or threaten or allow the discharge of any contaminants into the environment in any State so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources, or so as to violate regulations or standards adopted by the Pollution Control Board under this Act.

* * *

(f) Cause, threaten or allow the discharge of any contaminant into the waters of the State, as defined herein, including but not limited to, waters to any sewage works, or into any well or from any point source within the State, without an NPDES permit for point source discharges issued by the Agency under Section 39(b) of this Act, or in violation of any term or condition imposed by such permit, or in violation of any NPDES permit filing requirement established under Section 39(b), or in violation of any regulations adopted by the Board or of any order adopted by the Board with respect to the NPDES program.

* * *

7. Section 3.550 of the Act, 415 ILCS 5/3.550 (2006), contains the following definition:

"Waters" means all accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon this State.

8. Section 3.165 of the Act, 415 ILCS 5/3.165 (2006), provides the following definition:

"Contaminant" is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

9. Section 309.102(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a), provides:

- a) Except as in compliance with the provision of the Act, Board regulations, and the CWA, and the provisions and conditions of the NPDES permit issued to the discharger, the discharge of any contaminant or pollutant by any person into the waters of the State from a point source or into a well shall be unlawful.

10. The NPDES general stormwater permit requires Four S to implement the provisions of a storm water pollution prevention plan at the site, including erosion control measures.

11. The site consists of steeply sloped terrain. Stormwater discharges are routed to an onsite sedimentation basin and then in the roadside ditch eventually leading to Cahokia Creek.

12. On March 26, 2006, the Illinois EPA conducted a drive-by inspection of the site to evaluate Four S's compliance with the NPDES Permit. Extensive erosion was present at the site, and the roadside ditch on the east side of I-157 was covered in sediment-laden runoff. Silt fencing was in place, but required repair.

13. On or about January 3 and 4, 2005, silt-laden runoff was discharged from the site to Highway 157 and into nearby storm drainage systems. Laboratory results showed that total suspended solids ("TSS") were present in a quantity of 2280 mg/L in an affected ditch. For comparison, a sample demonstrated that TSS were present in a quantity of 20 mg/L in an unaffected ditch.

14. Although erosion control measures were present, they were inadequate to prevent erosion and silt-laden discharge from flowing into a roadside ditch that leads to the creek. Conditions were so extreme that the Illinois Department of Transportation was called out to remove mud from the highway shoulders and adjacent stormwater drainage ditches.

15. By causing or allowing or threatening the discharge of contaminants into waters of the State in violation of the terms or conditions of its NPDES Permit, Four S has thereby violated Section 309.102(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a).

16. By failing to maintain adequate erosion controls at its site to prevent silt-laden storm water discharges as required by its NPDES Permit, Four S has caused, threatened or allowed the discharge of any contaminant into the waters of the State in violation of its NPDES permit, and has thereby violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2006).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent, FOUR S, LLC:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Assessing against Respondent a civil penalty of ten thousand dollars (\$10,000) per day of violation; and
- E. Granting such other relief as the Board may deem appropriate.

COUNT II
WATER POLLUTION

1-14. Complainant realleges and incorporates herein by reference paragraphs 1 through 14 of Count I as paragraphs 1 through 14 of this Count II.

15. Section 3.545 of the Act, 415 ILCS 5/3.545 (2006), provides the following definition:

"Water Pollution" is such alteration of the physical, thermal, chemical, biological or radioactive properties of any waters of the State, or such discharge of any contaminant into any waters of the State, as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

16. Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203, prohibits offensive conditions in waters of the State:

Waters of the State shall be free from sludge or bottom deposits, floating debris, visible oil, odor, plant or algal, color or turbidity of other than natural origin. . . .

17. On or about January 3 and 4, 2005, offensive conditions were present in a roadside stormwater drainage ditch downstream from the site, because the inflow of silt-laden discharge caused the water to be unnaturally turbid due to the presence of high levels of TSS.

18. The Respondent caused or allowed the discharge of silt from the site into waters of the State so as to cause or tend to cause water pollution by creating a nuisance.

19. By so causing and threatening to cause water pollution, and by violating the water quality standard of Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203, the Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2006).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent, FOUR S, LLC:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act

and associated regulations;


D. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000) for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000) for each day during which each violation has continued thereafter; and

E. Granting such other relief as the Board may deem appropriate.

Respectfully submitted,

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

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

BY: 
THOMAS DAVIS, Chief
Environmental Bureau
Assistant Attorney General

Of Counsel:
JENNIFER BONKOWSKI
500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: 8/16/07

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
-vs-)
)
FOUR S, LLC,)
a limited liability company,)
)
Respondent.)

PCB No. 08-15
(Enforcement)
RECEIVED
CLERK'S OFFICE
AUG 20 2007

STIPULATION AND PROPOSAL FOR SETTLEMENT
STATE OF ILLINOIS
Pollution Control Board

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 FOUR S, LLC, a limited liability company, ("Respondent"), have agreed to the making of this Stipulation and Proposal for Settlement ("Stipulation") and submit it to the Illinois Pollution Control Board ("Board") for approval. The parties agree that the statement of facts contained herein represents a fair summary of the evidence and testimony which would be introduced by the parties if a hearing were held. The parties further stipulate that this statement of facts is made and agreed upon for purposes of settlement only and that neither the fact that a party has entered into this Stipulation, nor any of the facts stipulated herein, shall be introduced into evidence in any other proceeding regarding the claims asserted in the Complaint except as otherwise provided herein. If the Board approves and enters this Stipulation, Respondent agrees to be bound by the Stipulation and Board Order and not to contest their validity in any subsequent proceeding to implement or enforce their terms.

I. JURISDICTION

The Board has jurisdiction of the subject matter herein and of the parties consenting hereto pursuant to the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/1 et seq. (2006).

The undersigned representatives for each party certify that they are fully authorized by the party whom they represent to enter into the terms and conditions of this Stipulation and to legally bind them to it.

II. STATEMENT OF FACTS

A. Parties

1. A complaint is being filed simultaneously with the filing of this Stipulation 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(2006), 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 (2006).

3. Four S, LLC, ("Four S") is the owner of a tract of land referred to as the Madison County Commons ("site"), a 13-acre tract of land located along Highway 159 and Glenwood Drive in Madison County, Illinois.

B. Site Description

1. On August 25, 2003, the Illinois EPA issued coverage to Four S under the NPDES general stormwater permit.

2. The NPDES general stormwater permit requires Four S to implement the provisions of a storm water pollution prevention plan at the site, including erosion control measures.

3. The site consists of steeply sloped terrain. Stormwater discharges are routed to an onsite sedimentation basin and then in the roadside ditch eventually leading to Cahokia Creek.

4. On March 26, 2006, the Illinois EPA conducted a drive-by inspection of the site to evaluate Four S's compliance with the NPDES Permit. At that time, the Respondent's contractor was in the midst of site maintenance, which included cleaning ditches, installation of straw bales along the ditch referenced below, and fence repair and replacement. Extensive erosion was present at the site, and the roadside ditch on the east side of I-157 was covered in sediment-laden runoff. Silt fencing was in place, but required repair. The erosion controls present on site had not withstood heavy rainfall.

5. On March 31, 2006, Illinois EPA, Four S, and Madison County Soil and Water Conservation District ("MCSWCD") representatives met to discuss technical issues at the site. MCSWCD recommended additional technical measures, which Four S subsequently implemented.

6. On or about January 3 and 4, 2005, silt-laden runoff was discharged from the site to I-157 and into nearby storm drainage systems. Laboratory results showed that total suspended solids ("TSS") were present in a quantity of 2280 mg/L in an affected ditch. For comparison, a sample demonstrated that TSS were present in a quantity of 20 mg/L in an unaffected ditch.

7. Although erosion control measures were present, they were inadequate to prevent erosion and silt-laden discharge from flowing into a roadside ditch that leads to the creek. Conditions were so extreme that the Illinois Department of Transportation was called out to remove mud from the highway shoulders and adjacent stormwater drainage ditches.

8. On or about January 3 and 4, 2005, offensive conditions were present in a roadside stormwater drainage ditch downstream from the site, because the inflow of silt-laden discharge caused the water to be unnaturally turbid due to the presence of high levels of TSS.

9. Within one week of the January 3 and 4, 2005, event, Four S implemented

additional erosion control measures, such as installation of earthen berms and addition of riprap in targeted areas.

C. Allegations of Non-Compliance

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

Count I: By causing or allowing or threatening the discharge of contaminants into waters of the State in violation of the terms or conditions of its NPDES Permit, Four S has thereby violated Section 309.102(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a).

By failing to maintain adequate erosion controls at its site to prevent silt-laden storm water discharges as required by its NPDES Permit, Four S has caused, threatened or allowed the discharge of any contaminant into the waters of the State in violation of its NPDES permit, and has thereby violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2006).

Count II: The Respondent caused or allowed the discharge of silt from the site into waters of the State so as to cause or tend to cause water pollution by creating a nuisance.

By so causing and threatening to cause water pollution, and by violating the water quality standard of Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203, the Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2006).

D. 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 III.C herein, and this Stipulation shall not be interpreted as including such admission.

E. Compliance Activities to Date

Following the January 3 and 4, 2005, event, Four S installed two earthen berms to divert runoff into a sediment basin, and removed sediment from the former basin and the outlet to the riser pipe assembly in the roadside ditch. In addition, Four S installed riprap around the inlet to the riser and seeded the berms.

III. APPLICABILITY

This Stipulation shall apply to and be binding upon the Complainant and the Respondent, and any officer, director, agent, or employee of the Respondent, as well as any successors or assigns of the Respondent. The Respondent shall not raise as a defense to any enforcement action taken pursuant to this Stipulation the failure of any of its officers, directors, agents, employees or successors or assigns to take such action as shall be required to comply with the provisions of this Stipulation.

IV. COMPLIANCE WITH OTHER LAWS AND REGULATIONS

This Stipulation in no way affects the responsibilities of the Respondent to comply with any other federal, state or local laws or regulations including, but not limited to, the Act and the Board regulations, 35 Ill. Adm. Code, Subtitles A through H.

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

Section 33(c) of the Act, 415 ILCS 5/33(c)(2006), provides as follows:

In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges, or deposits involved including, but not limited to:

1. the character and degree of injury to, or interference with

the protection of the health, general welfare and physical property of the people;

2. the social and economic value of the pollution source;
3. the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;
4. the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
5. any subsequent compliance.

In response to these factors, the parties state the following:

1. Complainant contends that the injury to, or interference with, the protection of the health, general welfare, and physical property of the People would be characterized as water pollution and the degree of injury was minimized due to the immediate corrective action.

2. The parties agree that Respondent's site is of social and economic benefit;

3. Respondent's site is suitably located along I-157 and Glenwood Drive in Madison County.

4. The parties agree that complying with the Act and regulations is technically practicable and economically reasonable; and

5. Respondent implemented measures subsequent to the alleged violations that are the subject of the Complaint in this matter in order to operate in compliance with the Act.

VI. CONSIDERATION OF SECTION 42(h) FACTORS

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

In determining the appropriate civil penalty to be imposed under . . . this Section, the Board is authorized to consider any matters of record in mitigation or aggravation of penalty, including but not limited to the following factors:

1. the duration and gravity of the violation;

2. the presence or absence of due diligence on the part of the respondent in attempting to comply with requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;
3. any economic benefits accrued by the respondent because of delay in compliance with requirements, in which case the economic benefits shall be determined by the lowest cost alternative for achieving compliance;
4. the amount of monetary penalty which will serve to deter further violations by the respondent and to otherwise aid in enhancing voluntary compliance with this Act by the respondent and other persons similarly subject to the Act;
5. the number, proximity in time, and gravity of previously adjudicated violations of this Act by the respondent;
6. whether the respondent voluntarily self-disclosed, in accordance with subsection I of this Section, the non-compliance to the Agency; and
7. whether the respondent has agreed to undertake a "supplemental environmental project," which means an environmentally beneficial project that a respondent agrees to undertake in settlement of an enforcement action brought under this Act, but which the respondent is not otherwise legally required to perform.

In response to these factors, the parties state as follows:

1. The violations present on March 26, 2006, were resolved immediately and additional technical preventative measures were subsequently implemented. The violations present on or about January 3 and 4, 2005, were resolved when silting along Route 157 was removed from the highway shoulder and drainage ditches by the Illinois Department of Transportation ("IDOT") on January 3 and 4, 2005. Four S promptly reimbursed IDOT an amount of \$9,050.86 in March 2005 upon receipt of notice of the amount expended by that agency.

2. Four S was diligent in attempting to comply with the requirements of the Act and related regulations in response to the March 2006 violations. Its diligence regarding

cleanup after the January 2005 event cannot be determined because a third party cleaned the sediment from the highway shoulder and drainage ditches. However, Four S was diligent in reimbursing IDOT for the costs incurred and implementing additional erosion control measures, such as installation of earthen berms and addition of riprap in targeted areas.

3. The Respondent did not accrue any economic benefit in this matter, due to the cost of reimbursement to IDOT.

4. Complainant has determined that a monetary penalty of \$2,500.00 in addition to the supplemental environmental projects ("SEPs") outlined below, will serve to deter further violations and aid in future voluntary enforcement of the Act and applicable regulations.

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

6. The Respondent did not voluntarily selfdisclose the noncompliance to the Illinois EPA.

7. The settlement of this matter does include SEPs in addition to the monetary penalty. In order to promote the goals of the Act to restore, protect and enhance the quality of the environment, Respondent shall make three donations to the MCSWCD, and each donation shall be designated for funding of its corresponding SEP. All three donations shall be made to the district by August 1, 2007. Four S and MCSWCD have discussed the requirements under this order. MCSWCD has agreed to complete the legwork for these events, and has agreed to hold these events by December 31, 2008.

Project Descriptions

Envirothon This is an environmental competition for teams of high school students. Each team of five students receives hands-on training in five natural resource areas. The competition is part of a state-wide event sponsored by local soil and water conservation

districts. Students take an exam to test their knowledge in these areas. The winning school team then goes on to a state-wide competition. Ten teams competed at the last event. Here is a breakdown of the costs involved:

- Trophies \$ 75
- T-Shirts for participants \$ 480
- Food - Lunch/Snacks \$ 410
- State Registration Fee \$ 150
- Total for Donation to MCSWCD by Four S: \$1,115

Nature Day This is an outdoors event for county fifth graders. Students have the opportunity to hear presentations from natural resource professionals about subjects that include: recycling, rocks and minerals, soils, fishing, wildlife habitat, trees, bird watching and others. The World Bird Sanctuary comes and gives a presentation, complete with live birds of prey. Here is a breakdown of costs:

- World Bird Sanctuary \$250
- Food/Snacks \$250
- Total for Donation to MCSWCD by Four S: \$500

Erosion and Sediment Control Field Day This event is held on the campus of Southern Illinois University Edwardsville. Developers, contractors, engineers and municipal employees are invited to a field demonstration of current products and application techniques in the field of erosion control and sediment retention. Possible demonstrations include: rolled erosion control blankets, turf reinforcement mats, silt fence, hydroseeding equipment and the installation of a rock sediment basin. Some costs include:

- Purchase of rock and hauling \$500
- Brochures/mailings \$450

• Total for Donation to MCSWCD by Four S:	\$950
TOTAL FOR ALL THREE EVENTS:	\$2,565

VII. TERMS OF SETTLEMENT

A. Penalty Payment

1. The Respondent shall pay a civil penalty in the sum of two thousand five hundred dollars (\$2,500.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation. The Respondent stipulates that payment has been tendered to Respondent's attorney of record in this matter in a form acceptable to that attorney. Further, Respondent stipulates that said attorney has been directed to make the penalty payment on behalf of Respondent, within thirty (30) days from the date the Board adopts and accepts this Stipulation, in a manner prescribed below. The penalty described in this Stipulation shall be paid by certified check to the Illinois EPA, designated to the Illinois Environmental Protection Trust Fund and submitted to:

Illinois Environmental Protection Agency
 Fiscal Services Section
 1021 North Grand Avenue East
 P.O. Box 19276
 Springfield, IL 62794-9276

The name and number of the case shall appear on the check. A copy of the certified check shall be sent to:

Peggy Poitevint
 Office of the Attorney General
 Environmental Bureau
 500 South Second Street
 Springfield, IL 62706

2. Pursuant to Section 42(g) of the Act, 415 ILCS 5/42(g) (2006), interest shall accrue on any payment not paid within the time period prescribed above at the maximum rate

allowable under Section 1003(a) of the Illinois Income Tax Act, 35 ILCS 5/1003 (2006). Interest on any unpaid payment shall begin to accrue from the date the payment is due and continue to accrue until the date payment is received. When partial payment(s) are made, such partial payment shall be first applied to any interest on unpaid payment then due and owing. All interest on payment owed shall be paid by certified check payable to the Illinois EPA, designated to the Illinois Environmental Protection Trust Fund and delivered to the address and in the manner described above.

3. For purposes of payment and collection, Respondent may be reached at the following address:

Kevin H. Jones, Member
Four S, LLC
123 Rottingham Court
Edwardsville, IL 62025

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

B. Future Use

Notwithstanding any other language in this Stipulation to the contrary, and in consideration of the mutual promises and conditions contained in this Stipulation, including the Release from Liability contained in Section VIII.D, below, the Respondent hereby agrees that this Stipulation may be used against the Respondent in any subsequent enforcement action or permit proceeding as proof of a past adjudication of violation of the Act and the Board Regulations promulgated thereunder for all violations alleged in the Complaint in this matter, for purposes of Section 39(a) and (i) and/or 42(h) of the Act, 415 ILCS 5/39(a) and(i) and/or 5/42(h)(2006). Further, Respondent agrees to waive any rights to contest, in any subsequent enforcement action or permit proceeding, any allegations that these alleged violations were

adjudicated.

C. Cease and Desist

The Respondent shall cease and desist from future violations of the Act and Board Regulations that were the subject matter of the Complaint as outlined in Section III.C ("Allegations of Non-Compliance") of this Stipulation.

D. Release from Liability

In consideration of the Respondent's payment of the \$2,500.00 cash penalty and any specified costs and accrued interest, payment of the funding for completion of the SEPs, to Cease and Desist as contained in Section VIII.C and upon the Pollution Control Board's acceptance and approval of the terms of this Stipulation and Proposal for Settlement, the Complainant releases, waives and discharges the Respondent from any further liability or penalties for violations of the Act and Board Regulations that were the subject matter of the Complaint herein. The release set forth above does not extend to any matters other than those expressly specified in Complainant's Complaint filed simultaneously with this Stipulation. The Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against the Respondent with respect to all other matters, including but not limited to, the following:

- a. criminal liability;
- b. liability for future violation of state, federal, local, and common laws and/or regulations;
- c. liability for natural resources damage arising out of the alleged violations; and
- d. liability or claims based on the Respondent's failure to satisfy the requirements of this Stipulation.

Nothing in this Stipulation is intended as a waiver, discharge, release, or covenant not to

sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the State of Illinois or the Illinois EPA may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315, or entity other than the Respondent.

E. Right of Entry

In addition to any other authority, the Illinois EPA, its employees and representatives, and the Attorney General, her agents and representatives, shall have the right of entry into and upon the Respondent's site which is the subject of this Stipulation, at all reasonable times for the purposes of carrying out inspections. In conducting such inspections, the Illinois EPA, its employees and representatives, and the Attorney General, her employees and representatives may take photographs, samples, and collect information, as they deem necessary.

F. Correspondence, Reports and Other Documents

Any and all correspondence, reports and any other documents required under this Stipulation, except for payments pursuant to Section VIII.A ("Penalty Payment") of this Stipulation shall be submitted as follows:

As to the Complainant

Jennifer Bonkowski
Assistant Attorney General
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706

Joey Logan-Wilkey
Assistant Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, IL 62794

As to the Respondent

Kevin H. Jones, Member
Four S, LLC

123 Rottingham Court
Edwardsville, IL 62025

Mark Weinheimer
Polsinelli, Shalton, Flanigan and Suelthaus
100 S. Fourth Street, Suite 1100
St. Louis, MO 63102

G. Modification of Stipulation

The parties may, by mutual written consent, agree to extend any SEP implementation dates or modify the terms of this Stipulation. A request for any modification shall be made in writing and submitted to the contact persons identified in Section VIII.F. Any such request shall be made by separate document, and shall not be submitted within any other report or submittal required by this Stipulation. Any such agreed modification shall be in writing, signed by authorized representatives of each party, and then accompany a joint motion to the Illinois Pollution Control Board seeking a modification of the prior order approving and accepting the Stipulation to approve and accept the Stipulation as amended.

H. Enforcement of Board Order

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

2. Respondent agrees that notice of any subsequent proceeding to enforce the Board Order approving and accepting this Stipulation and Proposal for Settlement may be made by mail and waives any requirement of service of process.

3. The parties agree that, if the Board does not approve and accept this Stipulation and Proposal for Settlement, then neither party is bound by the terms herein.

4. It is the intent of the Complainant and Respondent that the provisions of this Stipulation and Proposal for Settlement and any Board Order accepting and approving such

shall be severable, and should any provision be declared by a court of competent jurisdiction to be inconsistent with state or federal law, and therefore unenforceable, the remaining clauses shall remain in full force and effect.

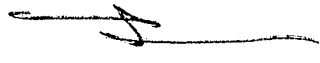
WHEREFORE, Complainant and Respondent request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

PEOPLE OF THE STATE OF ILLINOIS,

LISA MADIGAN,
Attorney General
State of Illinois,

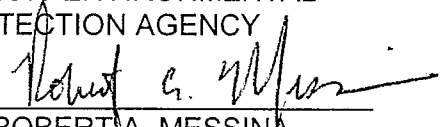
MATTHEW J. DUNN, Chief
Environmental Enforcement/
Asbestos Litigation Division

Dated: 8/01/07

BY: 
THOMAS DAVIS, Chief
Environmental Bureau
Assistant Attorney General

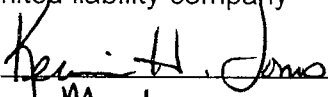
ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

Dated: 8/10/07

BY: 
ROBERT A. MESSINA
Chief Legal Counsel
Division of Legal Counsel

~~FOUR S PROPERTIES, LLC~~
a limited liability company

Dated: July 20, 2007

BY: 
Member

