



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

**RECEIVED**  
CLERK'S OFFICE

OCT 22 2007

STATE OF ILLINOIS  
Pollution Control Board

**Lisa Madigan**  
ATTORNEY GENERAL

October 18, 2007

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

Re: ***People v. Michel Grain Company, Inc., et al.***  
**PCB No. 96-143**

Dear Clerk Gunn:

Enclosed for filing please find the original and ten copies of a NOTICE OF FILING, MOTION FOR RELIEF FROM HEARING REQUIREMENT and STIPULATION AND PROPOSAL FOR SETTLEMENT, in regard to the above-captioned matter. Please file the originals and return file-stamped copies of the documents to our office in the enclosed, self-addressed, stamped envelope.

Thank you for your cooperation and consideration.

Very truly yours,

A handwritten signature in black ink that reads "Phillip McQuillan". The signature is written in a cursive style with a long, sweeping tail on the final letter.

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

PM/pjk  
Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
vs. )  
)  
MICHEL GRAIN COMPANY, INC., a/k/a )  
MICHEL FERTILIZER, an Illinois )  
corporation, CARYLE MICHEL, )  
RONNIE TODD and RONNIE TODD )  
LAND TRUST, )  
)  
Respondents. )

PCB 96-143  
(Enforcement-Water)

**RECEIVED**  
CLERK'S OFFICE  
OCT 22 2007  
STATE OF ILLINOIS  
Pollution Control Board

NOTICE OF FILING

To: Doug Antonik  
Antonik Law Offices  
411 Main Street  
Mt. Vernon, IL 62864

F. William Bonan  
Bonan, Bonan & Rowland  
P.O. Box 309  
McLeansboro, IL 62859


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

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN  
Attorney General of the  
State of Illinois

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

BY:   
PHILLIP McQUILLAN  
Assistant Attorney General  
Environmental Bureau

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: October 18, 2007

**CERTIFICATE OF SERVICE**

I hereby certify that I did on October 18, 2007, send by First Class Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box true and correct copies of the following instruments entitled NOTICE OF FILING, MOTION FOR RELIEF FROM HEARING REQUIREMENT and STIPULATION AND PROPOSAL FOR SETTLEMENT

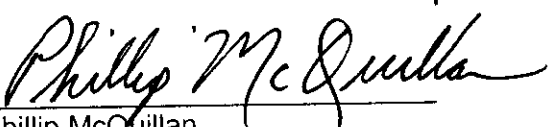
To: Doug Antonik Antonik Law Offices 411 Main Street Mt. Vernon, IL 62864	F. William Bonan Bonan, Bonan & Rowland P.O. Box 309 McLeansboro, IL 62859
--	---

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

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

A copy was also sent by First Class Mail with postage thereon fully prepaid

To: Carol Webb  
Hearing Officer  
Pollution Control Board  
1021 North Grand Avenue East  
Springfield, Illinois 62702

  
Phillip McQuillan  
Assistant Attorney General

This filing is submitted on recycled paper.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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PEOPLE OF THE STATE OF ILLINOIS, )  
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MICHEL GRAIN COMPANY, INC., a/k/a )  
MICHEL FERTILIZER, an Illinois )  
corporation, CARYLE MICHEL, )  
RONNIE TODD and RONNIE TODD )  
LAND TRUST, )  
)  
Respondent. )

PCB 96-143  
(Enforcement-Water)

MOTION FOR RELIEF FROM HEARING REQUIREMENT

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

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

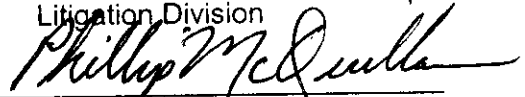
WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby requests that the Board grant this motion for relief from the hearing requirement set forth in Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2006).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS  
LISA MADIGAN  
ATTORNEY GENERAL

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

BY:



PHILLIP McQUILLAN  
Environmental Bureau  
Assistant Attorney General

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: October 18, 2007



Stipulation, Respondent Michel and Respondent Todd agree 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.* (2004).

II.

**AUTHORIZATION**

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.

III.

**STATEMENT OF FACTS**

**A. Parties**

1. On or about September 20, 2002, a Third Amended Complaint was filed on behalf of the People of the State of Illinois by Lisa Madigan, Attorney General of the State of Illinois, on her own motion and upon the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31(2004), 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 (2004).

3. At all times relevant to the Third Amended Complaint, Respondent Michel conducted a farm fertilizer and farm chemical business both as MICHEL GRAIN COMPANY,

INC., a corporation that was authorized to transact business in the State of Illinois and which was also known as MICHEL FERTILIZER; and, Respondent Michel also conducted a farm fertilizer and farm chemical business as an individual proprietor.

4. Respondent Michel conveyed "Block 35 in the Village of Broughton, situated in Hamilton County, Illinois, (the "Broughton site") to Respondent Todd by means of a Quitclaim Deed, dated June 24, 1997, and recorded in Hamilton County in Deed Record Book 254 at Page 731. On or about July 21, 2000, Ronnie Todd conveyed said property to the Ronnie Todd Land Trust.

**B. Site Description**

1. At all times relevant to the Third Amended Complaint, Respondent Michel owned and operated a grain elevator and a farm fertilizer and farm chemical facility located in the eastern portion of the Village of Ina in the NE 1/4 of the NW 1/4 of Section 29, Township 4 South, Range 3 East in the County of Jefferson, in the State of Illinois (the "Ina site" or "Ina facility"); and, Respondent Michel owned and operated a farm fertilizer and farm chemical facility adjacent to Illinois Route 142 located in Block 35 in the Village of Broughton, in the County of Hamilton, in the State of Illinois (the "Broughton site" or "Broughton facility").

2. On May 8, 1989, the Illinois EPA inspected the Ina site. The inspection disclosed that, for a period of time known only to Respondent Michel, the Ina facility was operated in such a manner that resulted in the discharge of fertilizers, pesticides, and herbicides onto the ground.

3. The operating practices at the Ina site resulted in the accumulation of fertilizers, pesticides, and herbicides on and in the ground at the Ina site and in the drainage way adjacent to the Ina site so as to cause or tend to cause water pollution.

4. Respondent Michel purchased the Broughton facility on February 7, 1989; Respondent Michel operated the Broughton facility from February of 1989, until some time in



the late Spring of 1990; from the Spring of 1990 until the land was sold to Ronnie Todd on June 24, 1997, no agricultural fertilizer or chemical business was conducted on the site; Respondent Michel leased the workshop building to various persons for equipment storage and/or repair from late Spring of 1990 until the land was sold to Ronnie Todd.

5. On January 9, 1992, the Illinois EPA inspected the Broughton site. The inspection disclosed that, for a period of time known only to Respondent Michel, the Broughton facility was operated in such a manner that resulted in the discharge of fertilizers, pesticides, and herbicides onto the ground.

6. The operating practices at the Broughton site resulted in the accumulation of fertilizers, pesticides, and herbicides on and in the ground at the Broughton site and in the drainage way adjacent to the Broughton site so as to cause or tend to cause water pollution.

### **C. Allegations of Non-Compliance**

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

Count I: Section 12(a) of the Act, 415 ILCS 5/12(a),  
Section 12(d) of the Act, 415 ILCS 5/12(d),  
Section 306.102(b) of the Board's Rules and  
Regulations, 35 Ill. Adm. Code 306.102(b),  
Sections 302.203 and 304.106 of the Board's  
Rules and Regulations, 35 Ill. Adm. Code 302.203  
and 304.106.

Count II: Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2)  
Section 808.121 of the Board's Rules and Regulations,  
35 Ill. Adm. Code 808.121.

Count III: Section 12(a) of the Act, 415 ILCS 5/12(a),  
Section 12(d) of the Act, 415 ILCS 5/12(d),  
Sections 302.203 and 304.106 of the Board's  
Rules and Regulations, 35 Ill. Adm. Code 302.203  
and 304.106.

Count IV: Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2)  
Section 808.121 of the Board's Rules and Regulations,  
35 Ill. Adm. Code 808.121.

**D. No Admission of Violations**

The Respondent Michel represents that he 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 Michel does not affirmatively admit the allegations of violation within the Third Amended Complaint, and this Stipulation shall not be interpreted as including such admission.

Respondent Todd denies that he has violated the Act. Respondent Todd enters into this Stipulation for the sole purpose of allowing access to the Broughton site for the purpose of soil and water testing which will be paid for by Respondent Michel. If remediation is needed at the Broughton site, Respondent Todd will allow access to the Broughton site for remediation work which will be paid for by Respondent Michel.

**E. Compliance Activities to Date**

1. On May 11, 2001, ARDL, Inc., (Applied Research & Development Laboratory) of Mt. Vernon, Illinois collected soil samples from the Ina site and later tested the samples for the following compounds: alachlor, atrazine, pendimentahlin, trifluralin, nitrate compounds, and ammonia.

2. ARDL, Inc., prepared a report; and, the Conclusion of the report states in part:  
Detected parameters were compared to the applicable regulatory action levels

(i.e., TACO, Tier 1 Soil Remediation Objectives for Residential Properties \* \* \*. The compounds alachlor, atrazine, pendimethalin, trifluralin, and nitrate as nitrogen have action levels in the milligram per kilogram range. The compound \* \* \* ammonia do[es] not have action levels assigned. All analysis results indicate that soils and sediments have concentrations of the analyzed parameters which are well below the action levels.

#### IV.

#### APPLICABILITY

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

1. No change in ownership, corporate status or operator of the facility shall in any way alter the responsibilities of the Respondent Michel under this Stipulation and Proposal for Settlement. In the event of any conveyance of title, easement or other interest in the facility, the Respondent Michel shall continue to be bound by and remain liable for performance of all obligations under this Stipulation.

2. On June 24, 1997, Caryle Michel and Catherine Michel conveyed Block 35 in the Village of Broughton, situated in Hamilton County, Illinois, the Broughton site, to Ronnie Todd. On or about July 21, 2000, Ronnie Todd conveyed said property to the Ronnie Todd Land Trust.

3. Ronnie Todd and the Ronnie Todd Land Trust agree to allow ARDL, Inc., or any other environmental testing or laboratory company designated by Respondent Michel and

approved by the Illinois EPA, access to the Broughton site for the purpose of collecting soil and sediment samples for laboratory analysis.

4. Ronnie Todd and the Ronnie Todd Land Trust agree to allow environmental remediation contractors, designated by Respondent Michel and approved by the Illinois EPA, access to the Broughton site for the purpose of remediating the land and groundwater to meet TACO Tier 1 Soil Remediation Objectives for Residential Properties for the following compounds: alachlor, atrazine, metolachlor, pendimethalin, trifluralin, metribuzin, cyanazine, simazine, ammonia, and nitrates-N.

5. If remediation work is necessary at the Broughton site, as shown by the laboratory analysis of the soil and sediment samples, the Respondent Michel shall notify each prime contractor to be retained to perform work required by any Order accepting and adopting the terms of this Stipulation of each of the requirements of said Order 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 and any Order accepting and adopting the terms of this Stipulation and Proposal for Settlement to each contractor already retained no later than 30 days after the date of filing of this Stipulation. In addition, the Respondent Michel 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 any Order accepting and adopting the terms of this Stipulation.

**V.**

**COMPLIANCE WITH OTHER LAWS AND REGULATIONS**

This Stipulation in no way affects the responsibilities of the Respondent Michel 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.

## VI.

### **IMPACT ON THE PUBLIC RESULTING FROM ALLEGED NON-COMPLIANCE**

Section 33(c) of the Act, 415 ILCS 5/33(c)(2004), 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. Human health and the environment were threatened by the Respondent Michel's violations at the Ina site and at the Broughton site.
2. There is social and economic benefit to the Ina facility and to the Broughton facility.
3. Operation of the Ina facility and the Broughton facility were both suitable for the areas in which they were located.
4. Compliance with the terms of the Act and the Board's Rules and Regulations is both technically practicable and economically reasonable.
5. Respondent Michel has discontinued operation of the Ina facility and the Broughton facility.

## VII.

### CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h)(2004), 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.(a). At the Ina site, Respondent Michel failed to have a poured concrete surface and catch basin with containment tanks to contain farm fertilizer and/or farm chemical spills. At the Ina site, the violations were discovered during an Illinois EPA inspection on May 8, 1989. At the next inspection on May 31, 1989, the inspector noted that efforts had been made to remedy the problems and that the site was in much better condition than it had been on May 8, 1989. The

violations existed for a period of time prior to May 8, 1989; operational improvements at the site were evident on May 31, 1989; and sometime thereafter, all operations at the site ceased.

1.(b) At the Broughton site, the prior owner and operator who is deceased did not employ suitable operating practices to avoid or contain spills prior to the installation of a poured concrete surface and construction of two containment tanks to catch spills and rinseate. Respondent Michel purchased the Broughton facility on February 7, 1989. Respondent Michel operated the Broughton facility from February of 1989, until some time in the late Spring of 1990 on a lease/profit-sharing basis. Some time in late Spring of 1990, the Broughton site was closed. The Illinois EPA inspected the Broughton site on January 9, 1992.

2. At the Ina facility, Respondent Michel took steps in attempting to come back into compliance with the Act, Board regulations and applicable federal regulations, once the Illinois EPA notified him of his noncompliance.

3. Respondent Michel enjoyed an economic benefit in noncompliance at the Ina site in the amount of money saved by not installing a poured concrete surface and placement of containment tanks to catch spills and rinseate. Complainant estimates this cost savings to be \$5,000. The economic benefit as to noncompliance at the Broughton site was enjoyed by the prior owner and operator. Any benefit to Respondent Michel would be only nominal.

4. Complainant has determined, based upon the specific facts of this matter, that a penalty of FIVE THOUSAND DOLLARS (\$5,000.00) will serve to recover any economic benefit accrued by the Respondent Michel, to deter further violations, and to aid in future voluntary compliance with the Act and Board regulations.

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

6. Self-disclosure is not at issue in this matter.

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

8. Respondent Todd did not participate in the violation of the Act at the Broughton site.

## VIII.

### TERMS OF SETTLEMENT

#### A. Penalty Payment

1. The Respondent Michel shall pay a civil penalty in the sum of FIVE THOUSAND Dollars (\$5,000.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation. The penalty described in this Stipulation shall be paid by certified check, money order or wire transfer payable 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, Illinois 62794-9276

The name and number of the case and Respondent Michel's Social Security Number must be on the check that is presented to the Illinois EPA. Upon signing this document Respondent Michel shall supply his Social Security Number to the Illinois EPA. The Social Security Number will only be used to track payment in this case and to assure that the payment is credited to Respondent Michel. A copy of the certified check or money order and the transmittal letter shall be sent to:



Phillip McQuillan  
Assistant Attorney General  
Environmental Bureau  
500 South Second Street  
Springfield, Illinois 62702

Charles Gunnarson  
Assistant Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

2. Pursuant to Section 42(g) of the Act, 415 ILCS 5/42(g) (2004), 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 (2004). 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 or money order, 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 Michel may be reached at the following address:

Caryle Michel  
22 Wildwood Dr.  
Mt. Vernon, Illinois 62864

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, the Respondent Michel agrees that this Stipulation may be used against the Respondent Michel in any subsequent enforcement action as proof of a past adjudication of violation of the Act and the Board Regulations promulgated thereunder for all violations alleged in the Third Amended 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)(2004). Further, Respondent Michel agrees to waive any rights to contest, in any subsequent enforcement action, any allegations that these alleged violations were adjudicated.

**C. Correspondence, Reports and Other Documents**

Any and all correspondence, reports and any other documents required under this Stipulation, except for payments pursuant to Section IX. of this Stipulation, shall be submitted as follows:

As to the Complainant

Phillip McQuillan  
Assistant Attorney General (or other designee)  
Environmental Bureau  
500 South Second Street  
Springfield, Illinois 62702

Charles Gunnarson  
Assistant Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

As to the Respondent Michel

Doug Antonik  
Attorney at Law  
P. O. Box 594  
Mt. Vernon, Illinois 62864

As to the Respondent Todd

F. William Bonan  
Bonan, Bonan & Rowland  
Attorneys at Law  
P. O. Box 309  
McLeansboro, IL 62859

**D. Right of Entry**

1. 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 Michel's current and former facilities which are 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.

2. Respondent Todd shall allow access to the Broughton site for the purpose of soil and water testing which shall be paid for by Respondent Michel. If remediation work is required, based upon the results of the soil or water testing, at the Broughton site, Respondent Todd shall allow access to the Broughton site for remediation work which shall be paid for by Respondent Michel.

**E. Compliance Plan**

Respondent Michel shall submit a Site Assessment Plan ("SAP") to the Illinois EPA within sixty (60) days of the order and opinion of the Pollution Control Board's ruling on this Stipulation and Proposal for Settlement. The SAP must be approved or rejected by the Illinois EPA. If the SAP is rejected by the Illinois EPA, Respondent Michel shall submit a revised SAP that meets the approval of the Illinois EPA. The SAP shall provide for a minimum of four soil borings to be

collected from the operational area of the Broughton site. Each of the soil sampling sites should have samples collected at the 0" to 6" level and again at the 18" to 24" level. Each of the eight soil samples should be analyzed for the following parameters: alachlor, atrazine, metolachlor, pendimethalin, trifluralin, metribuzin, cyanazine, simazine, ammonia, and nitrates-N.

The Site Assessment Plan shall further provide for a minimum of three soil sedimentation samples to be collected along the centerline of the drainage ditch along Illinois Route 142 adjacent to the Broughton site. The sediment samples should be a composite of the sediment from the ditch surface down to the hardpan. These samples should be analyzed for the same parameter as the operational area soil samples as listed above.

If the laboratory analysis of the soil samples listed above shows that any sample fails to meet TACO Tier 1 Soil Remediation Objectives for Residential Properties for the parameters of the compounds: alachlor, atrazine, metolachlor, pendimethalin, trifluralin, metribuzin, cyanazine, simazine, ammonia, and nitrates-N, then Respondent Michel shall formulate and submit to the Illinois EPA a corrective action plan to remediate the presence of the excess compound(s). The corrective action plan must be approved or rejected by the Illinois EPA. If the corrective action plan is rejected by the Illinois EPA, Respondent Michel shall submit a revised corrective action plan that meets the approval of the Illinois EPA. Once approved by the Illinois EPA, the corrective action plan must be implemented by Respondent Michel. At the conclusion of the corrective action plan work, the Broughton site is to be tested again in conformity with the procedures, requirements, and standards set forth herein as provided in this Section VIII. E. Compliance Plan.

**F. Cease and Desist**

Respondent Michel shall cease and desist from future violations of the Act and Board regulations that were the subject matter of the Third Amended Complaint as outlined in Section III.C. of this Stipulation.

**G. Release from Liability-Respondent Michel**

In consideration of the Respondent Michel's payment of the \$5,000.00 penalty, upon the completion of all activities required hereunder, and upon the Pollution Control Board's acceptance and approval of the terms of this Stipulation, the Complainant releases, waives and discharges the Respondent Michel from any further liability or penalties for violations of the Act and Board regulations that were the subject matter of the Third Amended Complaint herein. The release set forth above does not extend to any matters other than those expressly specified in Complainant's Third Amended Complaint filed on September 20, 2002. The Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against the Respondent Michel 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 Michel'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 Michel.

#### **H. Release from Liability-Respondent Todd**

In consideration of Respondent Todd allowing access to the Broughton site for soil and water testing and allowing access for remediation work, if necessary, and upon the Pollution Control Board's acceptance and approval of the terms of this Stipulation, the Complainant releases, waives and discharges the Respondent Todd from any further liability or penalties for violations of the Act and Board regulations that were the subject matter of the Third Amended Complaint herein.

#### **I. Enforcement of Board Order**

1. Upon the entry of the Board's Order approving and accepting this Stipulation, 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 Michel agrees that notice of any subsequent proceeding to enforce the Board Order approving and accepting this Stipulation 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, then none of the parties are bound by the terms herein.

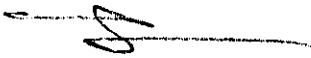
4. It is the intent of the Complainant and Respondent Michel that the provisions of this Stipulation and any Board Order accepting and approving such shall be severable, and should any provision be declared by a court of competent jurisdiction to be inconsistent with state or federal law, and therefore unenforceable, the remaining clauses shall remain in full force and effect.

WHEREFORE, Complainant and Respondents request that the Board adopt and accept the foregoing Stipulation as written.

PEOPLE OF THE STATE OF ILLINOIS,

LISA MADIGAN  
Attorney General  
State of Illinois

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

BY: 

THOMAS DAVIS, Chief  
Environmental Bureau  
Assistant Attorney General

DATE: 10/18/07

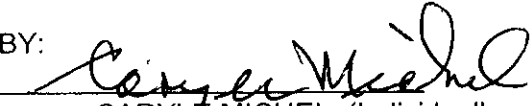
ILLINOIS ENVIRONMENTAL PROTECTION  
AGENCY

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

ROBERT A. MESSINA  
Chief Legal Counsel

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

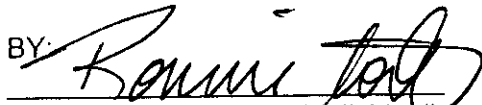
RESPONDENT MICHEL:  
MICHEL GRAIN COMPANY, INC.,  
MICHEL FERTILIZER, and  
CARYLE MICHEL

BY: 

CARYLE MICHEL, (Individually, and for  
Michel Grain Company, Inc., and Michel  
Fertilizer)

DATE: 10-3-07

RESPONDENT TODD:  
RONNIE TODD and  
RONNIE TODD LAND TRUST

BY:   
\_\_\_\_\_  
RONNIE TODD (Individually, and as  
Trustee of Ronnie Todd Land Trust)

DATE: 10.10.07