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STATE OF ILLINOIS
Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD

TERESA L. SHEPRO, as Executor of the)
Estate of the Justice W. Shepro, deceased,)
and FRANK WIEMERSLAGE, as)
beneficiaries under Trust No. 898, of the)
Chicago Trust Company,)
Plaintiff,)

v.)

NEWBY OIL COMPANY, DAVID E.)
TRIPP and JANICE L. TRIPP,)
Defendants.)

COPY

NO. PCB 04-12

AMENDED NOTICE

TO: JANICE L. TRIPP, 1117 Commercial Street, Sycamore, IL 60178
CLIFFE, FOSTER, CORNEILLE & BUICK, 151 West Lincoln Highway, DeKalb, IL 60115

This is to provide you with Notice that the attached Amended Complaint has been filed with the Illinois Pollution Control Board on November 3, 2003. You are hereby being placed on Notice pursuant to Title 35 of the Illinois Administrative Code, Section 103.204. Failure to file an Answer to this Amended Complaint within sixty (60) days may have severe consequences. Failure to Answer will mean that all allegations in the Amended Complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney.

TERESA L. SHEPRO, as Trustee of the Justice
W. Shepro Trust, and TERESA L. SHEPRO and
FRANK WIEMERSLAGE, as beneficiaries under
Trust No. 898, of the Chicago
Trust Company, Complainants

By WILLIAMS & McCARTHY

By: Clayton L. Lindsey
Clayton L. Lindsey

WILLIAMS & McCARTHY
607 Washington Street
P.O. Box 339
Oregon, IL 61061
815/732-2101
Fax 815/732-2289
clindsey@wilmac.com
Notice.Janice3(bk)

I certify that I served this Notice on Respondent as follows:

(a) -- (Individual respondent--personal):

By leaving a copy of this Notice with a copy of the Complaint with the respondent personally on the date and time of the day when the Notice of Hearing was left with the respondent.

(b) -- (Individual respondent--abode):

By leaving a copy of this Notice at the usual place of abode of the respondent with a person of respondent's family, of the age of 13 years or upwards, informing that person of the contents of the Notice.

_____, Private Process Server

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TERESA L. SHEPRO, as Trustee of the Justice W. Shepro Trust, and TERESA L. SHEPRO and FRANK WIEMERSLAGE, as beneficiaries under Trust No. 898, of the Chicago Trust Company,
Complainant,

COPY

STATE OF ILLINOIS
Pollution Control Board

Case No. PCB 04-12

v.

NEWBY OIL COMPANY, DAVID E. TRIPP and JANICE L. TRIPP,
Respondents.

AMENDED COMPLAINT

NOW COME the Complainants, TERESA L. SHEPRO, as Trustee of the Justice W. Shepro Trust, and TERESA L. SHEPRO and FRANK WIEMERSLAGE, as beneficiaries under Trust No. 898, of the Chicago Trust Company, by and through their attorneys, WILLIAMS & McCARTHY, and for their Complaint against the Respondents, NEWBY OIL COMPANY, DAVID E. TRIPP and JANICE L. TRIPP, state as follows:

COUNT I - NEWBY

1. Plaintiff, TERESA L. SHEPRO, Trustee of the Justice W. Shepro Trust (hereinafter SHEPRO) is the beneficial co-owner of the real property which is the subject matter of this Complaint.

2. Plaintiff, FRANK WIEMERSLAGE, (hereinafter WIEMERSLAGE) is the beneficial co-owner of the real property which is the subject matter of this Complaint.

3. Plaintiffs, SHEPRO and WIEMERSLAGE, are the sole beneficiaries under Trust No. 898 dated June 29, 1977 of the Chicago Trust Company (hereinafter Trust).

4. The Trust is the owner of certain real property located on Oakland Drive, Sycamore, County of DeKalb, Illinois, and legally described as follows:

Lot 4 in Block One in Gateway Centre Subdivision, a subdivision of part of the East 1/2 of Section 12, Township 40 North, Range 4, East of the 3rd P.M., according to the Plat thereof recorded in Book (R) of Plats, Page 64, on July 5, 1977, as Document No. 403627 in DeKalb County, Illinois.

drums, above-ground storage tanks or semi trailers on Complainants' real property.

11. As a result of TRIPP's business operations and lease of the premises, great and dangerous quantities of petroleum and other harmful chemicals have migrated onto Complainant's real property causing environmental contamination and a concern for safety of Complainant's soil and groundwater.

12. The conditions created by TRIPP are endangering the health, use and life of Complainant's real property and preventing Complainants comfortable and reasonable use and enjoyment thereof.

13. Complainants have retained the services of an environmental consultant, Wendler Engineering Services, Inc., for purposes of investigating the source of contamination on Complainant's real property. Attached hereto as Exhibit 1 is the Expanded Site Investigation Report prepared by Wendler Engineering Services. Pursuant to the Investigative Reports, TRIPP's conduct has given rise to subsurface contamination in excess of Illinois EPA Tier 1 remediation objectives in both soil and groundwater located on Complainant's real property.

14. As a direct and proximate cause of TRIPP's conduct Complainants have and will continue to incur damages in one or more of the following ways:

- (a) The presence of these materials and equipment has caused contamination and pollutants in the soil and ground water of Complainants' property;
- (b) Complainants have incurred costs related to environmental investigation into the contamination cause and allowed by TRIPP.
- (c) Complainants will incur additional costs in the immediate future related to the investigation of the extent of contamination on Complainants' real property;
- (d) Complainants will incur substantial costs in the immediate future related to the remediation of environmental contamination on Complainants' real

property;

- (e) A diminution in the fair market value of Complainants' real property;
- (f) Damages related to the "stigma" of having environmentally contaminated property, even after remediation has been completed.

15. Demand has been made on TRIPP to remediate the contamination and TRIPP has failed and refused to do so.

16. The conduct of Defendant violated one or more of the following provisions of the Illinois Environmental Protection Act or regulations pertaining thereto:

- (a) 415 ILCS 5/12(a) in that Defendant caused or allowed the discharge of contaminants into the environment so as to cause or tend to cause water and/or ground water pollution;
- (b) 415 ILCS 5/12(d) in that Defendant deposited or allowed to be deposited contaminants upon the land in such place and manner so as to create a water and/or ground water pollution hazard;
- (c) Caused or allowed a discharge of contaminants such that the concentration of contaminants exceeds the Tier 1 remediation objective set forth in 35 Ill. Admin. Code 742.

WHEREFORE, Complainants pray that this Court enter Judgment in their favor and against Respondent, TRIPP, and provide the following relief:

- A. An award of monetary damages in excess of \$50,000.00;
- B. An injunctive order mandating TRIPP to remediate any and all contamination on Complainants' real property;
- C. Cease and desist its negligent conduct against the interest of Complainants;
- D. Cost of suit.
- E. Civil penalties assessed against TRIPP.

drums, above-ground storage tanks or semi trailers on Complainants' real property.

11. As a result of TRIPP's business operations and lease of the premises, great and dangerous quantities of petroleum and other harmful chemicals have migrated onto Complainant's real property causing environmental contamination and a concern for safety of Complainant's soil and groundwater.

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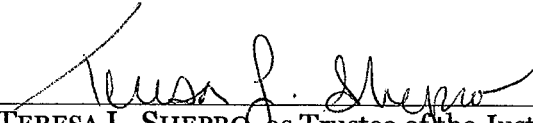
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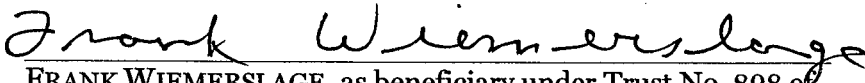
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TERESA L. SHEPRO, as Trustee of the Justice W. Shepro Trust,
and as beneficiary under Trust No. 898 of the Chicago
Trust Company


FRANK WIEMERSLAGE, as beneficiary under Trust No. 898 of
the Chicago Trust Company

TERESA L. SHEPRO, as Trustee of the Justice
W. Shepro Trust, and TERESA L. SHEPRO and
FRANK WIEMERSLAGE, as beneficiaries under
Trust No. 898, of the Chicago
Trust Company, Complainants

By WILLIAMS & McCARTHY

By: 
Clayton L. Lindsey

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Complaint(bk)