

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

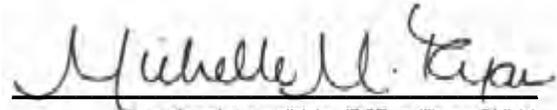
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	AC 18-10
)	
v.)	(IEPA No. 32-18-AC)
)	
DG PARTNERS LLC and CISSELL-)	
MUELLER CONSTRUCTION, INC.,)	
)	
Respondents.)	

NOTICE OF FILING

To: Caitlin L. Stayduhar
Summers Compton Wells
8909 Ladue Road
St Louis MO 63124

PLEASE TAKE NOTICE that on this date I filed with the Clerk of the Pollution Control Board of the State of Illinois the following instrument(s) entitled STIPULATION OF SETTLEMENT AND DISMISSAL OF RESPONDENTS' PETITION FOR REVIEW.

Respectfully Submitted,



e-signature valid for IPCB e-filings ONLY

Michelle M. Ryan
Special Assistant Attorney General

Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544

Dated: December 3, 2020

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
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Complainant,)	AC 18-10
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v.)	(IEPA No. 32-18-AC)
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DG PARTNERS LLC and CISSELL-)	
MUELLER CONSTRUCTION, INC.,)	
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Respondents.)	

STIPULATION OF SETTLEMENT AND DISMISSAL
OF RESPONDENTS' PETITION FOR ADMINISTRATIVE REVIEW

NOW COMES the Complainant, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (“Illinois EPA”), by and through its attorney, Michelle M. Ryan, and the Respondents, DG PARTNERS LLC and CISSELL-MUELLER CONSTRUCTION, INC., (“Respondents”), by and through their attorney, Caitlin L. Stayduhar, Summers Compton Wells LLC, pursuant to Sections 31.1 and 42(b)(4-5) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31.1 and 42(b)(4-5) (2018), and Section 103.180 of the Illinois Pollution Control Board’s (“Board”) Rules and Regulations, 35 Ill. Adm. Code 103.180, the parties hereby enter into this STIPULATION OF SETTLEMENT AND DISMISSAL OF RESPONDENTS’ PETITION FOR ADMINISTRATIVE REVIEW (“Agreement”), and in support hereof, the parties respectfully state as follows:

1. On January 25, 2018, Robert Wagner, Environmental Protection Specialist for the Illinois EPA’s Peoria Regional Office, conducted an inspection of a facility owned by Clifford M. Koltzebnurg and Chris S. Koltzenburg and operated by K&N Excavating. The facility is

located at the intersection of N. Co. Rd. 1700 and E. Co. Rd. 650, Carthage, Hancock County, Illinois, and is designated with Illinois EPA Site Code No. 0678020001.

2. On or about March 21, 2018, the Illinois EPA served the Respondents with Administrative Citation No. 32-18-AC, alleging therein that the Respondents had caused or allowed open dumping at the facility on January 25, 2018, in a manner which resulted in the following occurrences: (1) litter, a violation of 415 ILCS 5/21(p)(1) (2018); (2) open burning, a violation of 415 ILCS 5/21(p)(3)(2018); (3) deposition of construction or demolition debris, a violation of 415 ILCS 5/21(p)(7) (2018); and allowing water to accumulate in used tires, a violation of 415 ILCS 5/55(k)(1) (2018).

3. The Inspection Report attached to the Administrative Citation asserts that the alleged violations arose out of waste from demolition work at the former Hill-Dodge Bank in Warsaw, Illinois (“the Project Site”). Respondents are the owner and general contractor of the Project Site, but are not the owners or operators of the facility at issue.

4. On or about April 25, 2018, Respondents filed a Petition for Review contesting the administrative citation.

5. In an effort to resolve this matter without the need for a hearing, the parties have engaged in settlement negotiations and have reached this Agreement and hereby tender it to the Board for approval, the terms and conditions of which are as follows:

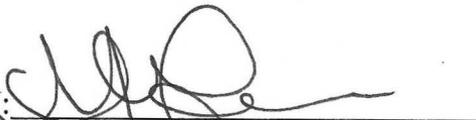
- a. Respondents neither admit nor deny that they caused or allowed open dumping resulting in litter and open burning, a violation of 415 ILCS 5/21(p)(1) and (3) (2018), and but agree to pay the statutory civil penalty of \$3,000.00 pursuant to 415 ILCS 5/42(b)(4-5) (2018).

- b. Respondents agree to pay the statutory civil penalty within 30 days of the date of the Board's order accepting this stipulation.
- c. Respondents agree to diligently comply with, and shall cease and desist from further violation of the Act, 415 ILCS 5/1 *et seq.* (2018), and the Board's rules and regulations, 35 Ill. Adm. Code Subtitles A through H.
- d. The Illinois EPA agrees not to refer the violations that are the subject of this administrative citation or any additional violations based upon waste present at the facility on January 25, 2018 to the Office of the Illinois Attorney General or any other prosecuting authority for the initiation of a civil enforcement action.
- e. Respondents' Petition for Review filed with the Board on or about April 25, 2019, shall be dismissed.

WHEREFORE, the parties request that the Board accept this Agreement and issue an order consistent with its terms and conditions.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, Complainant,

BY:



Michelle M. Ryan
Special Assistant Attorney General
1021 North Grand Avenue East
Springfield, IL 62702-4059
(217) 782-5544

DATE:

12/3/20

-AND-

DG PARTNERS LLC,

BY: 

DATE: 12/1/20

-AND-

CISSELL-MUELLER CONSTRUCTION, INC., Respondents,

BY: 

DATE: 12/2/20

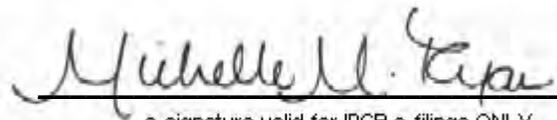
PROOF OF SERVICE

I hereby certify that I did on the 3rd day of December, 2020, send by U.S. Mail with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instrument(s) entitled STIPULATION OF SETTLEMENT AND DISMISSAL OF RESPONDENTS' PETITION FOR REVIEW

To: Caitlin L. Stayduhar
Summers Compton Wells
8909 Ladue Road
St Louis MO 63124

and the original via electronic filing on the same date

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

A handwritten signature in black ink, reading "Michelle M. Ryan", is written over a horizontal line.

e-signature valid for IPCB e-filings ONLY

Michelle M. Ryan
Special Assistant Attorney General

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