

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD **RECEIVED**
CLERK'S OFFICE

PEOPLE OF THE STATE OF)
ILLINOIS,)
)
Complainant,)
)
vs.)
)
GERALD HEWING, d/b/a HEWING)
TECHNICAL SERVICES,)
)
Respondent.)

NOV 24 2003

STATE OF ILLINOIS
Pollution Control Board

PCB No. 03-233
(Enforcement - Water)

NOTICE OF FILING

To: Gerald Hewing
d/b/a Hewing Technical Services
Rural Route 1, Box 3
Sigel, IL 64262

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 NOTICE OF FILING, MOTION FOR RELIEF FROM HEARING REQUIREMENT and STIPULATION AND PROPOSAL FOR SETTLEMENT, a copy of which is 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: Sally A. Carter
SALLY A. CARTER
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: November 20, 2003

CERTIFICATE OF SERVICE

I hereby certify that I did on November 20, 2003, 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, MOTION FOR RELIEF FROM HEARING REQUIREMENT and STIPULATION AND PROPOSAL FOR SETTLEMENT:


To: Gerald Hewing
d/b/a Hewing Technical Services
Rural Route 1, Box 3
Sigel, IL 64262

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

A copy was also sent to:

Carol Sudman
Hearing Officer
Illinois Pollution Control Board
1021 N. Grand Avenue East
Springfield, IL 62794



Sally A. Carter
Assistant Attorney General

This filing is submitted on recycled paper.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS
Pollution Control Board

PCB NO. 03-233
(Enforcement - Water)

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.)
)
 GERALD HEWING d/b/a HEWING)
 TECHNICAL SERVICES,)
)
 Respondent.)

MOTION FOR RELIEF FROM HEARING REQUIREMENT

NOW COMES the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by Lisa Madigan, Attorney General of the State of Illinois, and pursuant to subsection 32(c)(2) of the Illinois Environmental Protection Act ("the Act"), 415 ILCS 5/32(c)(2) (2002), moves that the Illinois Pollution Control Board ("the Board") grant the PEOPLE OF THE STATE OF ILLINOIS and GERALD HEWING d/b/a HEWING TECHNICAL SERVICES relief from the hearing requirement in the above-captioned matter. In support of this motion, Complainant states as follows:

1. On June 18, 2003, the Complainant filed a Complaint with the Board, alleging that the Respondent improperly discharged sanitary and process wastewater to waters of the State. In addition, the Complaint alleged open burning violations by the Respondent.

2. The People of the State of Illinois and the Respondent, Gerald Hewing, have reached agreement on all outstanding issues in this matter.

3. This agreement is memorialized and presented to the Board in a Stipulation and Proposal for Settlement, filed contemporaneously with this motion.

4. The parties, the People of the State of Illinois and Gerald Hewing agree that a hearing on the Stipulation and Proposal for Settlement is not necessary, and request relief from such a hearing as provided pursuant to subsection 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2002).

WHEREFORE, Complainant, People of the State of Illinois, hereby respectfully requests that the Board grant this Motion for Relief from the Hearing Requirement between Gerald Hewing and the People of the State of Illinois, as set forth in subsection 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2002).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN
ATTORNEY GENERAL

MATTHEW J. DUNN, Chief
Environmental Enforcement Division

BY: Sally A. Carter
SALLY A. CARTER
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: 11/20/03

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
vs.)
)
GERALD HEWING d/b/a HEWING)
TECHNICAL SERVICES,)
)
Respondent.)

No. PCB 03-233

STIPULATION AND PROPOSAL FOR SETTLEMENT

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 Respondent, GERALD HEWING d/b/a HEWING TECHNICAL SERVICES, have agreed to the making of this Stipulation and Proposal for Settlement 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 not to contest its validity in any subsequent proceeding to implement or enforce its 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. (2002).

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 June 18, 2003, a 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 42(d) and (e) of the Act, 415 ILCS 5/42(d) and (e)(2002), 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 (2002).

3. At all times relevant to the Complaint, Respondent, Gerald Hewing does business as Hewing Technical Services ("Hewing").

B. Site Description

1. At all times relevant to the Complaint, Respondent owned and operated a small auto repair shop, Hewing Technical Services located in Sigel, Shelby County, Illinois ("site").

2. On June 13, 2000, the Illinois EPA Bureau of Water ("BOW") and the Shelby County Health Department investigated the facility following a complaint regarding discharges from the facility's septic tank. Upon arrival at the facility, a small pile of trash was burning on the property.

3. On June 13, 2000, the Illinois EPA BOW discussed the discharge complaint with

Hewing. Hewing initially stated that an agreement existed between the Village of Sigel and him to "split the cost" of connecting the septic tank to the Village of Sigel's collection system.

However, when pressed to see the septic tank discharge, the Respondent led the Illinois EPA to a ditch receiving the discharges. The ditch is a water of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2002).

4. The Illinois EPA BOW observed the septic tank is located under a concrete platform; the ditch receiving its discharges is approximately 20 feet from the septic tank. The Illinois EPA BOW noted a sewage odor emanating from water in the ditch where the septic tank discharged.

5. Another discharge pipe was located in the ditch about fifteen feet from the septic tank discharge. The pipe contained a black substance and a black stain existed below the pipe in the ditch.

6. The Illinois EPA inspector asked Hewing where the shop's floor drains discharge. Hewing indicated that the drains are connected to the second pipe after passing through an oil/water separator. The Illinois EPA explained to Hewing that the oil/water separator is only intended to act as a waste pretreatment system prior to discharge to a full treatment facility, and that it in itself does not provide adequate treatment for a direct discharge to the environment. The oil/water separator, along with the septic tank, should have been connected to the sewage collection system.

7. The Illinois EPA next inquired of Hewing what was done with the waste oil from the cars he repaired. Hewing showed the inspector eight 20-gallon buckets that he uses to store oil; one of which was uncovered. The buckets were not labeled as containing waste oil.

8. On June 13, 2000, the receiving ditch was discolored and malodorous and contained oily, discolored discharges from the septic tank and oil/water separator.

9. The Illinois EPA has not issued the Respondent a National Pollutant Discharge Elimination System ("NPDES") permit for the facility.

10. On September 12, 2000, the Illinois EPA Bureau of Land ("BOL") conducted a land inspection of the Respondent's facility. During the inspection, the Illinois EPA noted evidence of open burning of refuse on the property.

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, allowing or threatening the discharge of contaminants to waters of the State so as to cause or tend to cause water pollution in Illinois, or to violate the Board's regulations or standards, the Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2002).

Count II: By allowing contaminants to discharge through buried pipes to the ditch, a point source without a NPDES permit, the Respondent has violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2002).

Count III: a. By allowing used oil and septic tank discharges to discharge to the ditch, a water of the State, where the unnatural odor and discolored material was noticeable, the Respondent has violated 35 Ill. Adm. Code 302.203.

b. By violating the regulations or standards adopted by the Board, the Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2002).

Count IV: a. By allowing the discharges of discolored and malodorous waste from its septic tank and oily, discolored discharges from its oil/water separator, the Respondent has violated 35 Ill. Adm. Code 304.106.

b. By violating the regulations or standards adopted by the Board,

the Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2002).

Count V: By causing, threatening, or allowing the discharge or emission of a contaminant into the environment so as to cause air pollution, the Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2002).

Count V: By causing or allowing the open burning of any refuse or conducting a salvage operation by open burning, the Respondent has violated Section 9(c) of the Act, 415 ILCS 5/9(c) (2002).

D. Admission of Violations

The Respondent admits to the violations alleged in the Complaint filed in this matter and referenced herein.

E. Compliance Activities to Date

Respondent applied for and received from the Illinois EPA water pollution control permit number 2003-EE-4023 to construct and operate an oil/water separator for the pretreatment of wastewater generated by the wash down of the automobile repair shop. Pre-treated wastewater will be discharged to the Village of Sigel's publicly-owned treatment works for final treatment.

IV.

APPLICABILITY

This Stipulation shall apply to and be binding upon the Complainant and the Respondent, and any officer or agent 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 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 under this Stipulation and Proposal for Settlement. In the event of any conveyance of title, easement or other interest in the facility, the Respondent shall continue to be bound by and remain liable for performance of all obligations under this Stipulation and Proposal for Settlement. In appropriate circumstances, however, the Respondent and a contemplated future owner or operator of the facility may jointly request, and the Complainant, in its discretion, may consider modification of any Order approving and adopting the terms of this Stipulation and Proposal for Settlement to obligate the proposed purchaser or operator to carry out future requirements of this Stipulation and Proposal for Settlement in place of, or in addition to, the Respondent.

2. In the event that the Respondent proposes to sell or transfer any real property or operations subject to any Order accepting and adopting the terms of this Stipulation and Proposal for Settlement, the Respondent shall notify the Complainant 30 days prior to the conveyance of title, ownership or other interest, including a leasehold interest in the facility or a portion thereof. The Respondent shall make the prospective purchaser or successor's compliance with any Order accepting and adopting the terms of this Stipulation and Proposal for Settlement a condition of any such sale or transfer and shall provide a copy of this Stipulation and Proposal for Settlement and any Order accepting and adopting the terms of this Stipulation and Proposal for Settlement to any such successor in interest. This provision does not relieve the Respondent from compliance with any regulatory requirement regarding notice and transfer of applicable facility permits.

V.

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

VI.

IMPACT ON THE PUBLIC RESULTING FROM ALLEGED NON-COMPLIANCE

Section 33(c) of the Act, 415 ILCS 5/33(c)(2002), 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. Plaintiff 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 a potential for air and water pollution and the degree of injury would be dependent upon the extent of the pollution and the degree of exposure to that pollution;
2. The parties agree that the Respondent's facility is of social and economic benefit;
3. The automobile repair shop is located in rural Sigel and is suitable for the area in which it operates.
4. The parties agree that complying with the Act and regulations is technically practicable and economically reasonable; and

5. Respondent applied for and received from the Illinois EPA water pollution control permit number 2003-EE-4023 to construct and operate an oil/water separator for the pretreatment of wastewater generated by the wash down of the automobile repair shop.

VII.

CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h)(2002), 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 violator 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 violator because of delay in compliance with requirements;
4. the amount of monetary penalty which will serve to deter further violations by the violator and to otherwise aid in enhancing voluntary compliance with this Act by the violator and other persons similarly subject to the Act; and
5. the number, proximity in time, and gravity of previously adjudicated violations of this Act by the violator.

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

1. The violations began on a date better known to the Respondent on or before June 13, 2000, have been individually resolved at various times in 2003 and continue to be resolved in conjunction with this Stipulation;

2. In response to this lawsuit, Respondent applied for and received from the Illinois EPA water pollution control permit number 2003-EE-4023 to construct and operate an oil/water separator for the pretreatment of wastewater generated by the wash down of the automobile repair shop. Pre-treated wastewater will be discharged to the Village of Sigel's publicly-owned

treatment works for final treatment.

3. The economic benefit of Respondent's noncompliance is the savings realized by not having in place a properly permitted oil/water separator to appropriately pre-treat wastewater generated by the wash down of the automobile repair shop.

4. Complainant has determined that a penalty of two thousand dollars (\$2,000.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

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

VIII.

TERMS OF SETTLEMENT

A. Penalty Payment

1. The Respondent shall pay a total penalty in the sum of two thousand dollars (\$2,000.00) to the Environmental Protection Trust Fund ("EPTF") in four installments. Within thirty (30) days after the date the Board adopts and accepts this Stipulation, the Respondent shall pay five hundred dollars (\$500.00) to the EPTF. Within one hundred and twenty (120) days after the date the Board adopts and accepts this Stipulation, the Respondent shall pay five hundred dollars (\$500.00) to the EPTF. Within two hundred and ten (210) days after the date the Board adopts and accepts this Stipulation, the Respondent shall pay five hundred dollars (\$500.00) to the EPTF. Within three hundred (300) days after the date the Board adopts and accepts this Stipulation, the Respondent shall pay five hundred dollars (\$500.00) to the EPTF. The penalty described in this Stipulation shall be paid by certified check 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, IL 62794-9276

Sec - Sec Number

The name and number of the case and Respondent's ~~Federal Employer Identification Number~~

~~(EIN)~~ 324-547431, shall appear on the check. A copy of the certified check or money order and the transmittal letter shall be sent to:

Sally Carter
Assistant Attorney General
Environmental Bureau
500 South Second Street
Springfield, Illinois 62702

2. Pursuant to Section 42(g) of the Act, 415 ILCS 5/42(g) (2002), 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 (2002). 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 Treasurer of the State of Illinois, designated to the Environmental Protection Trust Fund and delivered to the address and in the manner described above.

3. Upon Respondent's failure to pay any installment of the penalty when due, the entire balance of the penalty remaining unpaid shall without notice be and become immediately due and payable.

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

Gerald Hewing
d/b/a Hewing Technical Services
Rural Route 1, Box 3
Sigel, IL 64262

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

B. Technical Compliance

1. The Respondent shall connect the oil/water separator to the Village of Sigel's collection system by December 31, 2003. Prior to the connection of the oil/water separator, the Respondent shall ensure that no water/ contaminants are discharged to the ditch. The Respondent shall ensure that no discharge takes place through one of the following means:

- a. The Respondent shall collect all water used at the facility rather than sending any water to the separator/ dry sump;
- b. The Respondent shall plug the discharge pipe and collect any water in the dry sump; or
- c. The Respondent shall place a container below the discharge pipe and collect any water discharged through the pipe.

2. The Respondent shall remove all contaminated soil below the dry sump discharge pipe and shall properly disposed of all contaminated soil at a permitted landfill or other permitted facility by December 31, 2003.

3. The Respondent shall properly label all waste oil containers with the words "used oil" by December 31, 2003. At all times, the Respondents shall cover the containers with appropriate lids and shall keep the containers closed except when adding or removing used oil.

4. No open burning of waste other than on-site generated landscape waste may be burned on site. The Respondent must receive written approval from the Illinois EPA prior to

burning on-site generated landscape waste.

C. Future Use

Notwithstanding any other language in this Stipulation to the contrary, this Stipulation may be used against the Respondent in any subsequent enforcement action as evidence of a past adjudication of violation of the Act and the Board Regulations promulgated thereunder, for purposes of Sections 39(i) and/or 42(h) of the Act, 415 ILCS 5/39(i) and/or 5/42(h)(2002).

D. 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

Sally Carter
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

As to the Respondent

Gerald Hewing
d/b/a Hewing Technical Services
Rural Route 1, Box 3
Sigel, IL 64262

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 facility which is the subject of this Consent Order, 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. Cease and Desist

The Respondent shall cease and desist from future violations of the Act and Board Regulations, including but not limited to those sections of the Act and Board Regulations that were the subject matter of the Complaint as outlined in Section III.C. of this Stipulation.

G. Dispute Resolution

1. The dispute resolution procedure provided by this section shall be available to resolve all disputes arising under this Consent Order, and except where the Respondent has violated any payment or compliance deadline within this Stipulation and Proposal for Settlement. If the Respondent has violated any payment or compliance deadline, the Complaint may elect to file a petition for adjudication of contempt or rule to show cause. Notwithstanding the above, disputes regarding an imminent and substantial endangerment to the public health, welfare or the environment, or the Illinois EPA's approval, comment on, or denial of any report, plan or remediation objective, or the Illinois EPA's decision regarding appropriate or necessary response activity, are not subject to the dispute resolution provisions of this Stipulation and Proposal for Settlement.

2. The dispute resolution procedure shall be invoked upon the giving of written notice by one of the parties to this Stipulation and Proposal for Settlement to another describing the nature of the dispute and the noticing party's position with regard to such dispute. The party receiving such notice shall acknowledge receipt of the notice; thereafter the parties shall schedule a meeting to discuss the dispute informally not later than 14 days from the receipt of

such notice.

3. Disputes submitted to dispute resolution shall, in the first instance, be the subject of informal negotiations between the parties. Such period of informal negotiations shall be for a period of 30 calendar days from the date of the first meeting between representatives of the Complainant and the Respondent, unless the parties' representatives agree to shorten or extend this period.

4. In the event that the parties are unable to reach agreement during the informal negotiation period, the Complainant may exercise its authority to seek judicial resolution of the dispute in any available forum.

5. The invocation of dispute resolution, in and of itself, shall not excuse compliance with any requirement, obligation or deadline contained herein.

6. As part of the resolution of any dispute, the parties, by agreement, or by order of Court, may, in appropriate circumstances, extend or modify the schedule for completion of work under any Order accepting and adopting the terms of this Stipulation and Proposal for Settlement to account for the delay in the work that occurred as a result of dispute resolution.

H. Release from Liability

In consideration of the Respondent's payment of the \$2,000.00 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 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 on June 18, 2003. The Complainant reserves, and this Consent Order 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 3.26 of the Act, 415 ILCS 5/3.26, or entity other than the Respondent.

I. Enforcement of Consent 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 and 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 M. 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: 11/20/03

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

BY: _____

JOSEPH E. SVOBODA
Chief Legal Counsel

DATE: 11-13-03

GERALD HEWING
d/b/a HEWING TECHNICAL SERVICES

BY: _____

GERALD HEWING

DATE: 11-5-03