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STATE OF ILLINOIS  
Pollution Control Board

5. Defendants, DAVID E. TRIPP and JANICE L. TRIPP (hereinafter TRIPP), are owners of certain real property located directly adjacent and to the east of Plaintiffs' property. Defendants' real property being legally described as follows:

Lot 5 in Block One in Gateway Centre Subdivision, a subdivision of part of the East ½ of Section 12, Township 40 North, Range 4, East of the 3<sup>rd</sup> 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.

6. At all pertinent times herein, Defendant, NEWBY OIL COMPANY (hereinafter NEWBY) was the sole tenant, occupier and operator of the real property owned by TRIPP.

7. This Complaint is brought as a standard enforcement action before the Illinois Pollution Control Board pursuant to Section 5(d) and 31(d) of the Illinois Environmental Protection Act. 415 ILCS 5/5(d) and 5/31(d).

8. During all pertinent times herein, NEWBY has operated an oil company on the premises owned by TRIPP.

9. During NEWBY's occupation of TRIPP's real property, and up to and including at least July 20, 2001, NEWBY placed certain 55 gallon drums, above-ground storage tanks and semi trailers owned and used by NEWBY on the real property owned by Plaintiffs.

10. NEWBY did not have consent of Plaintiffs to place said 55 gallon drums, above-ground storage tanks or semi trailers on Plaintiffs' real property.

11. As a result of NEWBY's business operations, 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 NEWBY 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, NEWBY'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 NEWBY'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 by NEWBY;
- (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 NEWBY to remediate the contamination and NEWBY 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, NEWBY, and provide the following relief:

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

**COUNT II - TRIPP**

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

3. Complainants, 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 ½ of Section 12, Township 40 North, Range 4, East of the 3<sup>rd</sup> 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.

5. Respondents, DAVID E. TRIPP and JANICE L. TRIPP (hereinafter TRIPP), are owners of certain real property located directly adjacent and to the east of Complainants' property, Respondents' real property being legally described as follows:

Lot 5 in Block One in Gateway Centre Subdivision, a subdivision of part of the East ½ of Section 12, Township 40 North, Range 4, East of the 3<sup>rd</sup> 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.

6. At all pertinent times herein, Respondent, NEWBY OIL COMPANY (hereinafter NEWBY) was the sole tenant, occupier and operator of the real property owned by TRIPP.

7. This Complaint is brought as a standard enforcement action before the Illinois Pollution Control Board pursuant to Section 5(d) and 31(d) of the Illinois Environmental Protection Act. 415 ILCS 5/5(d) and 5/31(d).

8. During all pertinent times herein, NEWBY has operated an oil company on the premises owned by TRIPP.

9. During NEWBY's occupation of TRIPP's real property, and up to and including at least July 20, 2001, NEWBY placed certain 55 gallon drums, above-ground storage tanks and semi trailers owned and used by NEWBY on the real property owned by Complainants.

10. NEWBY did not have consent of Complainants to place said 55 gallon