

JUN 01 2004

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

Respondent.

(IEPA No. 34-04-AC)

THIS FILING SUBMITTED ON RECYCLED PAPER

JUN 01 2004

STATE OF ILLINOIS
Pollution Control Board

1. On January 15, 2004, Curt White, an Environmental Protection Specialist for the Illinois EPA's Champaign Regional Office, conducted an inspection of a facility owned and operated by the Respondent. The facility is located at 200 W. Franklin Street, Bement, Piatt County, Illinois, and is designated with Illinois EPA Site Code No. 1470055017.

2. On or about January 29, 2004, the Illinois EPA served the Respondent with Administrative Citation No. 34-04-AC, alleging therein that the Respondent had caused or allowed open dumping at his facility on January 15, 2004, in a manner which resulted in the following occurrences: (1) litter, a violation of 415 ILCS 5/21(p)(1) (2002); and (2) open burning, a violation of 415 ILCS 5/21(p)(3).

3. On or about February 27, 2004, the Respondent filed a Petition for Review contesting the administrative citation.

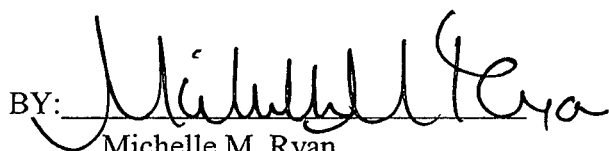
4. In an effort to resolve this matter without the need for a hearing, the parties have engaged in settlement negotiations and have reached this Agreement and hereby tender it to the Board for approval, the terms and conditions of which are as follows:

- a. Respondent admits that he caused or allowed open dumping resulting in litter, a violation of 415 ILCS 5/21(p)(1) (2002), and agrees to pay the statutory civil penalty of \$1,500.00 pursuant to 415 ILCS 5/42(b)(4-5) (2002).
- b. Respondent agrees to pay the statutory civil penalty in fifteen monthly installments of \$100.00, commencing on June 10, 2004, and continuing the first of each month thereafter until paid.
- c. Respondent agrees to diligently comply with, and shall cease and desist from further violation of the Act, 415 ILCS 5/1 *et seq.* (2002), and the Board's rules and regulations, 35 Ill. Adm. Code Subtitles A through H.
- d. The waste located at the site that was the subject of this administrative citation has been removed and properly disposed of.

- e. The Illinois EPA agrees not to refer the violations that are the subject of this administrative citation to the Office of the Illinois Attorney General or any other prosecuting authority for the initiation of a criminal or civil enforcement action.
- f. Respondent's Petition for Review filed with the Board on or about February 27, 2004, 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,

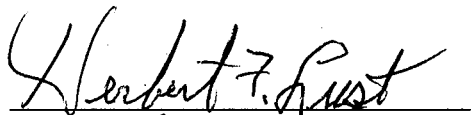
BY: 

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

DATE: 5/24/04

-AND-

Respondent,


HERBERT F. LUST

DATE: May 19, 2004

PROOF OF SERVICE

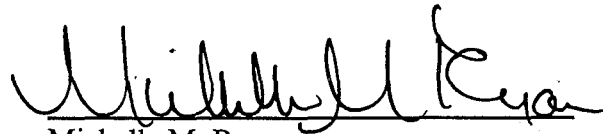
I hereby certify that I did on the 24th day of May 2004, send by U.S. Mail with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instrument(s) entitled STIPULATION OF SETTLEMENT AND DISMISSAL OF RESPONDENT'S PETITION FOR ADMINISTRATIVE REVIEW

To: Herbert Lust
Bement Plumbing Supply Company
P.O. Box 197
Bement, Illinois 61813

Carol Sudman
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274

and the original and nine (9) true and correct copies of the same foregoing instruments on the same date by U.S. Mail with postage thereon fully prepaid

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



Michelle M. Ryan
Special Assistant Attorney General

Illinois Environmental Protection Agency
1021 North Grand Avenue East
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