

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED  
CLERK'S OFFICE

AUG 5 2003

STATE OF ILLINOIS  
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
v. )  
)  
G & M TOTAL, INC., an Illinois )  
Corporation, GEORGE PAPAS, )  
individually and as President of )  
G & M TOTAL, INC., )  
)  
Respondents. )

PCB No. 97-119  
(Enforcement)

NOTICE OF FILING

TO:

Mr. Thomas Davis  
2610 Sheridan Road, Suite 214  
Zion, Illinois 60099

George Papas  
6751 W. Tonto Drive  
Glendale, Arizona 85308

Bradley P. Halloran, Hearing Officer  
Illinois Pollution Control Board  
James R. Thompson Center  
100 W. Randolph St., Suite 11-500  
Chicago, Illinois 60601

PLEASE TAKE NOTICE that the Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, filed with the Illinois Pollution Control Board, its MOTION TO DEEM FACTS ADMITTED, a true and correct copy of which is attached hereto and is hereby served upon you.

PEOPLE OF THE STATE OF ILLINOIS  
Ex rel. LISA MADIGAN, Attorney  
General of the State of Illinois

BY: Katherine A. Kelly  
KATHERINE A. KELLY  
Assistant Attorney General  
Environmental Bureau  
188 West Randolph, 20<sup>th</sup> Floor  
Chicago, IL 60601  
(312) 814-3153

Dated: August 5, 2003

**RECEIVED**

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

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STATE OF ILLINOIS  
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MOTION TO DEEM FACTS ADMITTED

NOW COMES the Complainant, PEOPLE OF THE STATE OF ILLINOIS, ex rel. LISA MADIGAN, Attorney General of the State of Illinois, and pursuant to Section 103.162 of the Board's Procedural Rules, 35 Ill. Adm. Code 103.162 (1996), hereby moves for the entry of an order deeming all facts in Complainant's first Request for Admission of Facts as admitted against Respondents, G & M TOTAL, INC. and GEORGE PAPAS. In support thereof, Complainant states as follows:

1. On January 8, 1997, Complainant filed a two-count complaint against the Respondents alleging violations of Section 12(a) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/12(a) (1996), and Sections 731.160, 731.162 and 731.163 of the Illinois Pollution Control Board Regulations ("Board Regulations"), 35 Ill. Adm. Code 731.160, 731.162 and 173.163 (1996). Respondents, G & M TOTAL, INC. and GEORGE PAPAS, were served with Complainant's Complaint via certified mail on January

16, 1997. Specifically, the Complainant's Complaint alleges that Respondents failed to supply sufficient documentation of abatement measures and of a site check after confirmation of a petroleum release. Additionally, Respondents failed to supply sufficient documentation of an initial site characterization. A copy of the certified receipt is attached to and incorporated into this motion as Exhibit A.

2. On December 1, 1997, Complainant filed its first Request for Admission of Facts. Complainant caused the document to be mailed to Respondents, G & M TOTAL, INC. and GEORGE PAPAS, on December 1, 1997. The document requested the admission of all material facts alleged in Complainant's Complaint. A copy of the first Request for Admission of Facts is attached to and incorporated into this motion as Exhibit B.

3. Section 103.162 of the Board Procedural Rules, 35 Ill. Adm. Code 103.162, provides, in pertinent part, as follows:

\* \* \*

- (a) Request for Admission of Fact. A party may serve on any other party, no sooner than 21 days after filing of the complaint, a written request for the admission by the latter of the truth of any specified relevant fact set forth in the request.
- (C) Admission in the Absence of Denial. Each of the matters of fact and the genuineness of each document of which admission is requested is admitted unless, within 20 days after service thereof, the party to whom the request is directed serves upon the party requesting the admission either a sworn statement denying specifically the matters of which admission is requested or setting forth in detail the reasons why he

cannot truthfully admit or deny those matters or written objections on the ground that some or all of the requested admissions are privileged or irrelevant or that the request is otherwise improper in whole or in part...

\* \* \*

4. By failing to respond to Complainant's first Request for Admission of Facts by December 21, 1997 and by failing to file an objection by December 21, 1997 as required by Section 103.162(c), 35 Ill. Adm. Code 103.162(c) (1996), Respondent, G & M TOTAL, INC. and GEORGE PAPAS, have admitted the allegations asserted in Complainant's first Request for Admission of Facts.

5. As of the date of filing of this Motion, Respondents, G & M TOTAL, INC. and GEORGE PAPAS, have not filed a response to the Complainant's first Request for Admission of Facts.

6. Complainant therefore requests that the Board find, pursuant to Section 103.162 of 35 Ill. Adm. Code 103.162 (1996), that Respondents, G & M TOTAL, INC. and GEORGE PAPAS, have admitted all allegations asserted in Complainant's first request for Admission of Facts.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board issue an order in favor of Complainant and against Respondents G & M TOTAL, Inc. and GEORGE PAPAS:

1. Ordering all material allegations asserted in the Complainant's first Request for Admission of Facts admitted

against the Respondents; and

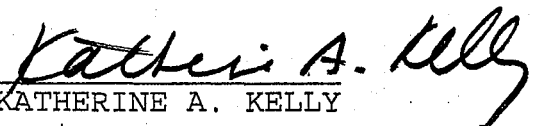
7. Granting such additional relief as the Board deems appropriate and just.

PEOPLE OF THE STATE OF ILLINOIS  
Ex rel. Lisa Madigan, Attorney  
General of the State of Illinois

MATTHEW J. DUNN, Chief  
Environmental Enforcement/Asbestos  
Litigation Division

ROSEMARIE CAZEAU, Chief  
Environmental Bureau

BY:

  
KATHERINE A. KELLY  
Assistant Attorney General  
Environmental Bureau  
188 West Randolph, 20<sup>th</sup> Floor  
Chicago, IL 60601  
(312) 814-3153



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

**Jim Ryan**  
ATTORNEY GENERAL

January 24, 1997

Dorothy M. Gunn, Clerk  
Pollution Control Board  
100 West Randolph Street  
Suite 11-500  
Chicago, Illinois 60601

Re: **People v. G & M Total, Inc.**  
PCB 97-119

Dear Ms. Gunn:

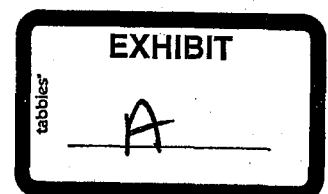
Enclosed please find a Return Receipt for the service of the complaint in the above-referenced matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Alyssa L. Fron".

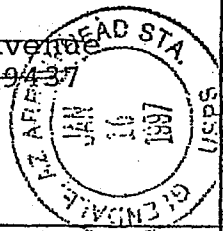
Alyssa L. Fron  
Assistant Attorney General  
Environmental Bureau  
100 West Randolph, 11th Fl.  
Chicago, Illinois 60601  
(312) 814-3774

Encl.  
c:\forms\ltr002



Is your RETURN ADDRESS completed on the reverse side?

<b>SENDER:</b> ■ Complete items 1 and/or 2 for additional services. ■ Complete items 3, 4a, and 4b. ■ Print your name and address on the reverse of this form so that we can return this card to you. ■ Attach this form to the front of the mailpiece, or on the back if space does not permit. ■ Write "Return Receipt Requested" on the mailpiece below the article number. ■ The Return Receipt will show to whom the article was delivered and the date delivered.		I also wish to receive the following services (for an extra fee):  1. <input type="checkbox"/> Addressee's Address 2. <input type="checkbox"/> Restricted Delivery Consult postmaster for fee.	
3. Article Addressed to: George Papas <del>43376 Prairie Avenue</del> <del>Zion, IL 60099-9437</del>		4a. Article Number P 449 482 551	
5. Received By: (Print Name) <i>George Papas</i>		4b. Service Type <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Certified <input type="checkbox"/> Express Mail <input type="checkbox"/> Insured <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> COD	
		7. Date of Delivery <i>1/16/97</i>	
6. Signature: (Addressee or Agent) <i>X Bonnie Papas</i>		8. Addressee's Address (Only if requested and fee is paid)	



Thank you for using Return Receipt Service.

Domestic Return Receipt

RECEIVED  
CLERK'S OFFICE

DEC - 1 1997

STATE OF ILLINOIS  
POLLUTION CONTROL BOARD

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
-vs- )  
)  
G & M TOTAL, INC., an Illinois Corporation, )  
GEORGE PAPAS, individually and as President )  
of G & M Total, Inc., )  
)  
Respondents. )

PCB 97 - 119  
(Enforcement)

**NOTICE OF FILING**

**TO: SEE ATTACHED SERVICE LIST**

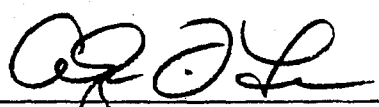
PLEASE TAKE NOTICE that I have today filed with the Illinois Pollution Control Board the following Discovery Requests upon Respondent, George Papas:

- a. Request for Admission of Facts;
- b. Complainant's First Set of Interrogatories;
- c. Complainant's First Request for Production of Documents.

A true copy of which is served upon you.

PEOPLE OF THE STATE OF ILLINOIS

JAMES E. RYAN  
Attorney General  
State of Illinois

BY: 

ALYSSA L. FRON  
Assistant Attorney General  
Environmental Bureau  
100 W. Randolph Street, 11th Floor  
Chicago, Illinois 60601  
(312) 814-3774

DATED: December 1, 1997

**THIS FILING IS SUBMITTED ON RECYCLED PAPER**

EXHIBIT  
tabbies  
B



## SERVICE LIST

Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
100 West Randolph Street  
Suite 11-500  
Chicago, Illinois 60601

Deborah L. Frank, Esq.  
Hearing Officer  
Illinois Pollution Control Board  
608 South Prospect Avenue  
Champaign, Illinois 61820

Thomas Robinson, Esq.  
2161 Sheridan Road  
Zion, Illinois 60099

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS  
POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, )  
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 G & M TOTAL, INC., an Illinois )  
 Corporation, GEORGE PAPAS, individually )  
 and as President of G & M Total, Inc., )  
 )  
 Respondents. )

PCB 97-119  
(Enforcement)

**REQUEST FOR ADMISSION OF FACTS**

Pursuant to 35 Ill. Adm Code 103.162(a), Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby requests Respondent, GEORGE PAPAS, to admit the truth of the following facts, in writing, under oath within twenty (20) days from the date of service hereof.

**INSTRUCTIONS AND DEFINITIONS**

I. With respect to any requested admission which Respondent refuses to answer because of a claim of privilege, provide a statement signed by an attorney representing Respondent setting forth as to each:

- a. the nature of the claim of privilege;
- b. the statute, rule or decision which is claimed to give rise to the claim of privilege;
- c. all facts relied upon in support of the claim of privilege;
- d. an identification of all documents related to the claim of privilege;
- e. an identification of all persons having knowledge of any facts related to the claim of privilege; and

f. an identification of all events, transactions or occurrences related to the claim of privilege.

2. "Illinois EPA" shall mean Illinois Environmental Protection Agency
3. "Respondent" shall mean George Papas.
4. "G & M" shall mean G & M Total, Inc.
5. "Papas" shall mean George Papas.
6. "OSFM" shall mean Office of the State Fire Marshall.
7. "IEMA" shall mean Illinois Emergency Management Agency.
8. "IESDA" shall mean Illinois Emergency Services Disaster Agency.
9. "Site" shall refer to the property and any portion thereof described in paragraphs 3 and 4 of Count I of the Complaint.
10. "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, or disposing from a UST or UST system into groundwater, surface water, soil or subsurface soil.
11. "UST" or "UST system" means an underground storage tank, connected underground piping, underground ancillary equipment, and containment system, if any.
12. "Regulated substance" means any "hazardous substance" or "petroleum".
13. "Hazardous substance" means any substance listed in 40 CFR 320.4 (but not including any substance regulated by the hazardous waste under 35 Ill. Adm. Code 721).
14. "Petroleum" [including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pound per square inch absolute)], includes, but is not limited to, petroleum and petroleum-based substances

comprising a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading and finishing, such as motor fuel, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents and used oil.

15. "Below ground release" means any release to the subsurface of the land and to groundwater. This includes, but is not limited to, releases from the below ground portions of an underground storage tank system and below ground releases associated with overfills and transfer operations as the regulated substance moves from an underground storage tank.

16. "Or " shall mean and/or wherever appropriate.

17. The singular form and plural form shall be construed interchangeably so as to elicit any facts or information which might otherwise be construed as outside their scope.

#### **FACTS TO BE ADMITTED**

##### **Fact No. 1**

Papas currently owns the real property located at 2301 Sheridan Road, Zion, Lake County, Illinois.

##### **Fact No. 2**

Since at least October 5, 1988, Papas has owned the real property located at 2301 Sheridan Road, Zion, Lake County, Illinois.

##### **Fact No. 3**

Papas is currently the president of G & M.

##### **Fact No. 4**

Papas has been the president of G & M since at least June 12, 1990.

Fact No. 5

Since at least June 12, 1990, G & M has owned and operated a gas station located at 2301 Sheridan Road, Zion, Lake County, Illinois.

Fact No. 6

G & M currently owns and operates a gas station located at 2301 Sheridan Road, Zion, Lake County, Illinois.

Fact No. 7

On or about October 5, 1988, Papas signed and submitted to the OSFM a Notification for Underground Storage Tanks for four (4) USTs.

Fact No. 8

On or about September 30, 1993, Papas signed and submitted to the OSFM a Notification for Underground Storage Tanks for four (4) USTs.

Fact No. 9

From at least October 5, 1988 and continuing until at least May 1, 1995, at least five (5) USTs and respective UST system were located at the Site.

Fact No. 10

Four (4) of the USTs located at the Site were utilized to store gasoline.

Fact No. 12

One (1) of the USTs located at the Site was utilized to store kerosene.

Fact No. 13

On July 10, 1991, G & M conducted a tightness test of four (4) of the USTs located at the Site.

Fact No. 14

On July 10, 1991, one (1) of the USTs at the Site failed the tightness test.

Fact No. 15

On July 11, 1991, G & M reported a release of gasoline from the UST system at the Site to the IEMA, formerly known as IESDA.

Fact No. 16

On November 7, 1994, a subsurface boring test was performed on the Site.

Fact No. 17

On November 7, 1994, the results of the subsurface investigation produced evidence of a release of gasoline and/or kerosene.

Fact No. 18

On November 7, 1994, G & M reported a release of gasoline from a UST system at the Site to the IEMA, formerly known as IESDA.

Fact No. 19

On or about May 1, 1995, at least five (5) USTs and respective UST system were removed from the Site.

Fact No. 20

Papas did not provide a 20 day report, as described in 35 Ill. Adm. Code 731.162, to the Illinois EPA within 20 days after confirmation of the release reported on or about July 11, 1991.

Fact No. 21

G & M did not provide a 20 day report, as described in 35 Ill. Adm. Code 731.162, to the Illinois EPA within 20 days after confirmation of the release reported on or about July 11, 1991.

Fact No. 22

Papas did not provide a 20 day report, as described in 35 Ill. Adm. Code 731.162, to the Illinois EPA within 20 days after confirmation of the release reported on or about November 7, 1994.

Fact No. 23

G & M did not provide a 20 day report, as described in 35 Ill. Adm. Code 731.162, to the Illinois EPA within 20 days after confirmation of the release reported on or about November 7, 1994.

Fact No. 24

On or about May 17, 1996, G & M submitted to the Illinois EPA a 20 day report, as described in 35 Ill. Adm. Code 731.162.

Fact No. 25

Papas did not provide a 45 day report, as described in 35 Ill. Adm. Code 731.163 to the Illinois EPA within 45 days after confirmation of the release reported on or about July 11, 1991.

Fact No. 26

G & M did not provide a 45 day report, as described in 35 Ill. Adm. Code 731.163, to the Illinois EPA within 45 days after confirmation of the release reported on or about July 11, 1991.

Fact No. 27

Papas did not provide a 45 day report, as described in 35 Ill. Adm. Code 731.163, to the Illinois EPA within 45 days after confirmation of the release reported on or about November 7, 1994.

Fact No. 28

G & M did not provide a 45 day report, as described in 35 Ill. Adm. Code 731.163, to the Illinois EPA within 45 days after confirmation of the release reported on or about November 7, 1994.

Fact No. 29

On or about March 27, 1996, G & M submitted to the Illinois EPA a 45 day report, as described in 35 Ill. Adm. Code 731.163.

Fact No. 30

By letter dated August 23, 1996, the Illinois EPA informed Papas that the Illinois EPA did not receive the 45 day report dated March 27, 1996, until May 1, 1996.

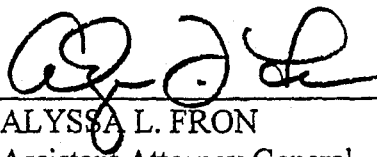
PEOPLE OF THE STATE OF ILLINOIS

JAMES E. RYAN  
Attorney General  
State of Illinois

MATTHEW J. DUNN, Chief  
Environmental Enforcement\Asbestos  
Litigation Division

WILLIAM D. SEITH, Chief  
Environmental Bureau

BY:

  
ALYSSA L. FRON  
Assistant Attorney General  
Environmental Bureau  
100 West Randolph St., 11th Flr.  
Chicago, Illinois 60601  
(312) 814-3774



**CERTIFICATE OF SERVICE**

I, ALYSSA L. FRON, an Assistant Attorney General in this case, do certify that I caused to be mailed this 1st day of December, 1997, the foregoing Notice of Filing, Request for Admission of Facts, Complainant's First Set of Interrogatories, and Complainant's First Request for Production of Documents upon:

Thomas Robinson, Esq.  
2161 Sheridan Road  
Zion, Illinois 60099

Deborah L. Frank, Esq.  
Hearing Officer  
608 South Prospect Avenue  
Champaign, Illinois 61820

by placing same in an envelope, postage prepaid, and depositing same with the United States Postal Service at 100 West Randolph Street, Chicago, Illinois; and

Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
100 West Randolph Street  
Suite 11-500  
Chicago, Illinois 60601

by hand delivery.



ALYSSA L. FRON

**CERTIFICATE OF SERVICE**

I, ALYSSA L. FRON, an Assistant Attorney General in this case, do certify that I caused to be mailed this 1st day of December, 1997, the foregoing Notice of Filing, Request for Admission of Facts, Complainant's First Set of Interrogatories, and Complainant's First Request for Production of Documents upon:

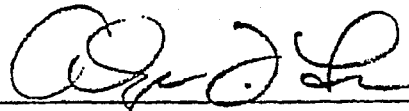
Thomas Robinson, Esq.  
2161 Sheridan Road  
Zion, Illinois 60099

Deborah L. Frank, Esq.  
Hearing Officer  
608 South Prospect Avenue  
Champaign, Illinois 61820

by placing same in an envelope, postage prepaid, and depositing same with the United States Postal Service at 100 West Randolph Street, Chicago, Illinois; and

Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
100 West Randolph Street  
Suite 11-500  
Chicago, Illinois 60601

by hand delivery.



---

ALYSSA L. FRON

CERTIFICATE OF SERVICE

I, KATHERINE A. KELLY, an Assistant Attorney General, do certify that I caused to be mailed this 5<sup>th</sup> day of August, 2003, the foregoing MOTION and NOTICE by first-class mail in a postage prepaid envelope and depositing same with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois, 60601.

Katherine A. Kelly