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JAN 03 2005

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

Complainant,

v.

CITY OF SALEM, ROGER KINNEY, DICK
BROWN and JASON BRUCE,

Respondents.

AC 04-84

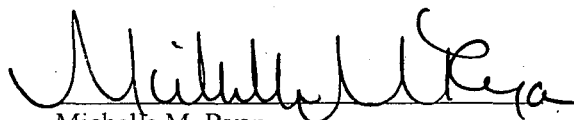
(IEPA No. 275-04-AC)

NOTICE OF FILING

To: Christine G. Zeman, Esq.
Hodge Dwyer & Zeman
3150 Roland Avenue
Springfield, IL 62705-5576

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

Respectfully submitted,



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 20, 2004

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(IEPA No. 275-04-AC)

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, CITY OF SALEM, ROGER KINNEY, DICK BROWN and JASON BRUCE, ("Respondents"), by and through their attorney, Christine G. Zeman, HODGE DWYER ZEMAN and 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) (2002), 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 RESPONDENT'S PETITION FOR ADMINISTRATIVE REVIEW ("Agreement"), and in support hereof, the parties respectfully state as follows:

1. On April 22, 2004, John Senjan, an Environmental Protection Specialist for the Illinois EPA's BOL-Collinsville Regional Office, conducted an inspection of a facility owned and

operated by the Respondent. The facility is located at 900 East Lake Street, Salem, Marion County, Illinois, and is designated with Illinois EPA Site Code No. 1218130007.

2. On or about June 4, 2004, the Illinois EPA served the Respondents with Administrative Citation No. 275-04-AC, alleging therein that the Respondents had conducted a sanitary landfill operation in a manner which resulted in the following occurrences: (1) uncovered refuse, a violation of 415 ILCS 5/21(o)(5) (2002); and (2) failure to collect and contain litter, a violation of 415 ILCS 5/21(o)(12).

3. On or about July 6, 2004, the Respondents filed a Petition for Review contesting the administrative citation.

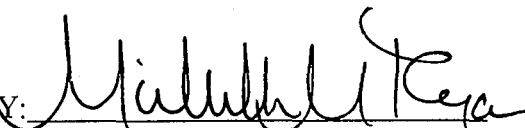
4. In an effort to resolve this matter without the need for a hearing, the parties have engaged in settlement negotiations and have reached this Agreement and hereby tender it to the Board for approval, the terms and conditions of which are as follows:

- a. Respondents do not admit that they conducted a sanitary landfill operation resulting in exposed refuse, a violation of 415 ILCS 5/21(o)(5) (2002). Nevertheless, in the interest of settlement, Respondents agree to pay a civil penalty of \$500.00 pursuant to 415 ILCS 5/42(b)(4) (2002).
- b. Respondent agrees to pay the statutory civil penalty within 30 days of the date of the Board Order accepting this agreement.
- 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 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.
- e. Respondent's Petition for Review filed with the Board on or about July 6, 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: 

DATE: 12/20/04

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

-AND-

CITY OF SALEM, ROGER KINNEY, DICK BROWN and JASON BRUCE, Respondents,

BY: 

DATE: December 14, 2004

Christine G. Zeman, Esq.
HODGE DWYER ZEMAN
3150 Roland Avenue
Post Office Box 5776
Springfield, IL 62705-5776
(217) 523-4900

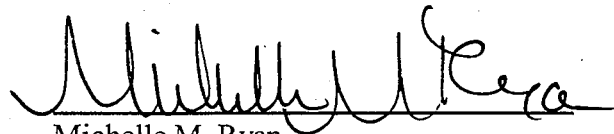
PROOF OF SERVICE

I hereby certify that I did on the 20th day of December 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 ADMNISTRATIVE REVIEW

To: Christine G. Zeman, Esq.
Hodge Dwyer & Zeman
3150 Roland Avenue
Springfield, IL 62705-5576

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
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