

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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MAY 26 2005

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.)
)
LOXLEY, INC.,)
)
Respondent.)

AC 03-5

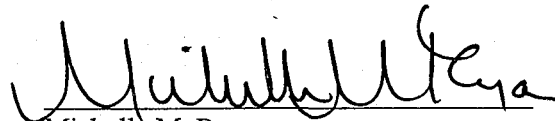
(IEPA No. 312-02-AC)

NOTICE OF FILING

To: H. Fred Loxley, President
Loxley, Inc.
903 East Third Street
Beardstown, Illinois 62618

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: May 24, 2005

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

MAY 26 2005

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL)
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v.)

LOXLEY, INC,)

Respondent.)

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(IEPA No. 312-02-AC)

STIPULATION OF SETTLEMENT AND DISMISSAL
OF RESPONDENT'S PETITION FOR ADMINISTRATIVE REVIEW

NOW COMES the Complainant, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY ("Illinois EPA"), by and through its attorney, Michelle M. Ryan, and the Respondent, LOXLEY, INC. ("Respondent"), 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 May 29, 2002, Charlie King, an Environmental Protection Specialist for the Illinois EPA's Springfield Regional Office, conducted an inspection of a facility owned and operated by the Respondents. The facility is located on the east side of the southern end of Oak Grove Court, Beardstown, Cass County, Illinois, and is designated with Illinois EPA Site Code No. 0170155050.

2. On or about July 29, 2002, the Illinois EPA served the Respondent with Administrative Citation No. 312-02-AC, alleging therein that the Respondent had caused or allowed open dumping at its facility on May 29, 2002, in a manner which resulted in the following occurrences: (1) litter, a violation of 415 ILCS 5/21(p)(1) (2000); (2) open burning, a violation of 415 ILCS 5/21(p)(3); (3) deposition of waste in standing and flowing waters, a violation of 415 ILCS 5/21(p)(4); and (4) deposition of general and/or clean construction or demolition debris, a violation of 415 ILCS 5/21(p)(7).

3. On or about August 29, 2002, 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:

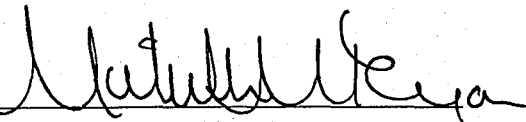
- a. Respondent admits that it caused or allowed open dumping resulting in litter, a violation of 415 ILCS 5/21(p)(1) (2000), and agrees to pay the statutory civil penalty of \$1,500.00 pursuant to 415 ILCS 5/42(b)(4-5) (2002) within 30 days of the date of this order.
- b. Respondent agrees to diligently 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.
- c. The waste located at the site that was the subject of this administrative citation has been removed and properly disposed of.

- 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 August 29, 2002, 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

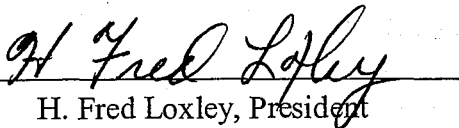
DATE:

5/24/05

-AND-

LOXLEY, INC., Respondent,

BY:



H. Fred Loxley, President
Loxley, Inc.
903 East Third Street
Beardstown, Illinois 62618
(217) 323-3270

DATE:

5/5/05

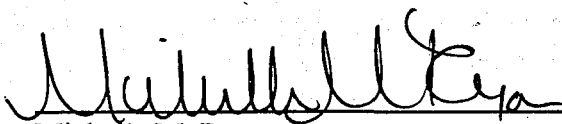
PROOF OF SERVICE

I hereby certify that I did on the 24th day of May, 2005, 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: H. Fred Loxley, President Loxley, Inc. 903 East Third Street Beardstown, Illinois 62618	Carol Sudman Hearing Officer Illinois Pollution Control Board 1021 North Grand Avenue East P.O. Box 19274 Springfield, Illinois 62794-9274
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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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P.O. Box 19276
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