

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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AUG 03 2005

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
))
Complainant,)
))
v.)
))
MARY LOU AND H. FRANK RECORD,)
))
Respondents.)

AC 04-06

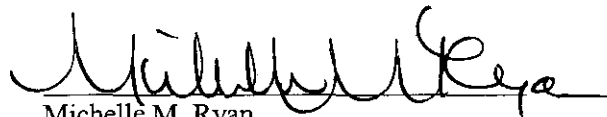
(IEPA No. 391-03-AC)

NOTICE OF FILING

To: John J. McCarthy
Attorney at Law
45 East Side Square, Suite 301
Canton, Illinois 61520

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: August 1, 2005

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AC 04-6

(IEPA No. 391-03-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 Respondents, MARY LOU AND H. FRANK RECORD ("Respondents"), by and through their attorney, John J. McCarthy 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 June 19, 2003, Robert Wagner, an Environmental Protection Specialist for the Illinois EPA's BOL-Peoria Regional Office, conducted an inspection of a facility owned and operated by the Respondents. The facility is located at 31011 North County Highway 2, Ellisville, Fulton County, Illinois, and is designated with Illinois EPA Site Code No. 0578255001.

2. On or about August 13, 2003, the Illinois EPA served the Respondents with Administrative Citation No. 391-031-AC, alleging therein that the Respondents had caused or allowed open dumping at their facility on June 19, 2003, in a manner which resulted in the following occurrences: (1) litter, a violation of 415 ILCS 5/21(p)(1) (2002); (2) open burning, a violation of 415 ILCS 5/21(p)(3); and (3) deposition of general and/or clean construction or demolition debris, a violation of 415 ILCS 5/21(p)(7).

3. On or about September 15, 2003, the Respondents filed a Petition for Review contesting the administrative citation.

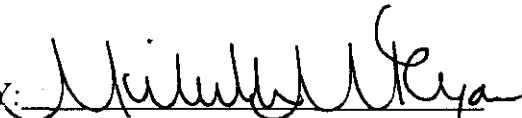
4. In an effort to resolve this matter without the need for a hearing, the parties have engaged in settlement negotiations and have reached this Agreement and hereby tender it to the Board for approval, the terms and conditions of which are as follows:

- a. Respondents admit that they caused or allowed open dumping resulting in litter and open burning, in violation of 415 ILCS 5/21(p)(1) and (p)(3) (2002), and agree to pay the statutory civil penalty of \$3,000.00 pursuant to 415 ILCS 5/42(b)(4-5) (2002) within 30 days of the date of this order.
- b. Respondents agree 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 will be removed and properly disposed of by June 30, 2005.

- e. In exchange for the payment and compliance activity noted above in subparagraphs (a) and (c), 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 September 15, 2003, 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,

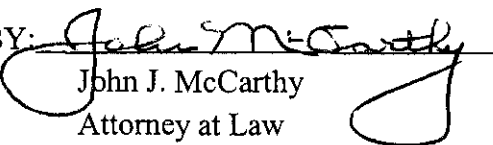
BY: 
Michelle M. Ryan
Special Assistant Attorney General
1021 North Grand Avenue East
Springfield, IL 62702-4059
(217) 782-5544

DATE: 8/1/05

-AND-

MARY LOU RECORD, Respondent,

H. FRANK RECORD, Respondent,

BY: 
John J. McCarthy
Attorney at Law
45 East Side Square, Suite 301
Canton, Illinois 61520
(309) 647-7477


H. Frank Record

DATE: July 27, 2005

DATE: July 27, 2005

PROOF OF SERVICE

I hereby certify that I did on the 1st day of August, 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 ADMNISTRATIVE REVIEW

To: John J. McCarthy	Carol Sudman
Attorney at Law	Hearing Officer
45 East Side Square, Suite 301	Illinois Pollution Control Board
Canton, Illinois 61520	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
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544

THIS FILING SUBMITTED ON RECYCLED PAPER