



**SERVICE LIST**

Bradley Halloran  
Hearing Officer  
Illinois Pollution Control Board  
60 E. Van Buren Street, Suite 630  
Chicago, IL 60605  
[Brad.Halloran@illinois.gov](mailto:Brad.Halloran@illinois.gov)  
(Via Email Only)

AZ SPE LLC  
c/o Halawa Illinois Registered Agent  
7000 W. 111<sup>th</sup> Street, Ste. 205  
Worth, IL 60482

**CERTIFICATE OF SERVICE**

I, the undersigned, certify that I have served on the date of 10th of February, 2023, the attached Notice of Filing, Motion for Relief from Hearing Requirement and Stipulation and Proposal for Settlement upon the persons listed on the foregoing Service List by methods described.

/s/ Kevin Garstka

Kevin Garstka

Assistant Attorney General

Environmental Bureau

Illinois Attorney General's Office

69 W. Washington Street, Suite 1800

Chicago, Illinois 60602

(773) 590-7029

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5. All parties agree that a hearing on the Stipulation and Proposal for Settlement is not necessary, and respectfully request relief from such a hearing as allowed by Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2020).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby requests that the Board grant this motion for relief from the hearing requirement set forth in Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2020).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

KWAME RAOUL  
Attorney General  
State of Illinois

BY: /s/ Kevin Garstka  
Kevin Garstka  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
69 W. Washington Street, Suite 1800  
Chicago, Illinois 60602  
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DATE: February 10, 2023



the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2020), against Respondent.

2. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2020).

3. At all times relevant to the Complaint, Respondent was and is an Illinois limited liability company, in good standing with the Illinois Secretary of State.

4. From June 29, 2016 to April 12, 2019, Respondent owned a gasoline dispensing facility located at 609 South Main Street, Algonquin, McHenry County, Illinois 60102 ("Facility").

5. Gasoline dispensing pumps were present at the Respondent's Facility that had the potential to emit volatile organic compounds ("VOCs") into the environment.

**B. Allegations of Non-Compliance**

Complainant contends that Respondent has violated the following provisions of the Act and Board Air Pollution Regulations:

Count I: Failure to Timely Decommission Vapor Collection and Control System and Submit Reports, in violation of Section 9(a) of the Act, 415 ILCS 5/9(a) (2020), and Sections 218.586(i)(1)(B), 218.586(i)(2)(A), and 218.586(i)(2)(C) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(1)(B), 218.586(i)(2)(A), and 218.586(i)(2)(C).

**C. Non-Admission of Violations**

Respondent represents that it has entered into this Stipulation for the purpose of settling and compromising disputed claims without having to incur the expense of contested litigation. By entering into this Stipulation and complying with its terms, Respondent does not affirmatively admit the allegations of violation within the Complaint and referenced within Section I.B herein, and this Stipulation shall not be interpreted as including such admission.

**D. Compliance Activities to Date**

1. On May 4, 2022 and May 11, 2022, Respondent submitted invoices for the installation of new gasoline pumps at the Facility to the Illinois EPA.

2. According to the invoices submitted to the Illinois EPA, the gasoline pumps were replaced at the Facility in 2018. The new pumps do not include a vapor collection and control system.

## **II. APPLICABILITY**

This Stipulation shall apply to and be binding upon the Parties to the Stipulation. Respondent shall not raise as a defense to any enforcement action taken pursuant to this Stipulation the failure of any of its officers, directors, agents, employees or successors or assigns to take such action as shall be required to comply with the provisions of this Stipulation. This Stipulation may be used against Respondent in any subsequent enforcement action or permit proceeding as proof of a past adjudication of violation of the Act and the Board Regulations for all violations alleged in the Complaint in this matter, for purposes of Sections 39 and 42 of the Act, 415 ILCS 5/39 and 42 (2020).

## **III. IMPACT ON THE PUBLIC RESULTING FROM ALLEGED NON-COMPLIANCE**

Section 33(c) of the Act, 415 ILCS 5/33(c) (2020), provides as follows:

In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges, or deposits involved including, but not limited to:

1. the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
2. the social and economic value of the pollution source;
3. the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;
4. the technical practicability and economic reasonableness of reducing or



eliminating the emissions, discharges or deposits resulting from such pollution source; and

5. any subsequent compliance.

In response to these factors, the Parties to the Stipulation state the following:

1. Complainant contends that human health and the environment were threatened and the Illinois EPA's information gathering responsibilities hindered by Respondent's violations.
2. There is social and economic benefit to the Facility.
3. Operation of the Facility was and is suitable for the area in which it is located.
4. Timely decommissioning of Respondent's vapor collection and control system, and timely submission of a decommissioning checklist, certification, and test results to the Illinois EPA, are both technically practicable and economically reasonable.
5. Respondent has subsequently complied with the Act and the Board Regulations.

#### **IV. CONSIDERATION OF SECTION 42(h) FACTORS**

Section 42(h) of the Act, 415 ILCS 5/42(h) (2020), provides as follows:

In determining the appropriate civil penalty to be imposed under . . . this Section, the Board is authorized to consider any matters of record in mitigation or aggravation of penalty, including but not limited to the following factors:

1. the duration and gravity of the violation;
2. the presence or absence of due diligence on the part of the respondent in attempting to comply with requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;
3. any economic benefits accrued by the respondent because of delay in compliance with requirements, in which case the economic benefits shall be determined by the lowest cost alternative for achieving compliance;
4. the amount of monetary penalty which will serve to deter further violations by the respondent and to otherwise aid in enhancing voluntary compliance with this Act by the respondent and other persons similarly subject to the Act;

5. the number, proximity in time, and gravity of previously adjudicated violations of this Act by the respondent;
6. whether the respondent voluntarily self-disclosed, in accordance with subsection i of this Section, the non-compliance to the Agency;
7. whether the respondent has agreed to undertake a 'supplemental environmental project,' which means an environmentally beneficial project that a respondent agrees to undertake in settlement of an enforcement action brought under this Act, but which the respondent is not otherwise legally required to perform; and
8. whether the respondent has successfully completed a Compliance Commitment Agreement under subsection (a) of Section 31 of this Act to remedy the violations that are the subject of the complaint.

In response to these factors, the Parties to the Stipulation state as follows:

1. Respondent failed to timely decommission its vapor collection and control system and submit a decommissioning checklist, certification, and test results to the Illinois EPA. The violations began on January 1, 2017, and were resolved by the replacement of gasoline pumps at the Facility in 2018 and Respondent's submittal of invoices for new gasoline pumps to the Illinois EPA on May 4, 2022 and May 11, 2022.

2. Respondent was diligent in attempting to come back into compliance with the Act and Board Regulations once the Illinois EPA notified it of its noncompliance.

3. The civil penalty takes into account any economic benefit realized by Respondent as a result of avoided or delayed compliance.

4. Complainant has determined, based upon the specific facts of this matter, that a penalty of Five Thousand Dollars (\$5,000.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board Regulations.

5. Respondent has had one similar previously adjudicated violation of the Act filed with the Board on March 17, 2021, People v. AZ SPE, LLC d/b/a Elmwood Park Phillips 66 (PCB

21-76). On February 17, 2022, the Board adopted a stipulation and proposal for settlement resolving that matter.

6. Self-disclosure is not at issue in this matter.

7. The settlement of this matter does not include a supplemental environmental project.

8. A Compliance Commitment Agreement was not at issue in this matter.

**V. TERMS OF SETTLEMENT**

**A. Penalty Payment**

Respondent shall pay a civil penalty in the sum of Five Thousand Dollars (\$5,000.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

**B. Interest and Default**

1. If Respondent fails to make any payment required by this Stipulation on or before the date upon which the payment is due, Respondent shall be in default and the remaining unpaid balance of the penalty, plus any accrued interest, shall be due and owing immediately. In the event of default, Complainant shall be entitled to reasonable costs of collection, including reasonable attorney's fees.

2. Pursuant to Section 42(g) of the Act, interest shall accrue on any penalty amount owed by Respondent not paid within the time prescribed herein. Interest on unpaid penalties shall begin to accrue from the date such are due and continue to accrue to the date full payment is received. Where partial payment is made on any penalty amount that is due, such partial payment shall be first applied to any interest on unpaid penalties then owing.

**C. Payment Procedures**

1. All payments required by this Stipulation shall be made by certified check or money

order payable to the Illinois EPA for deposit into the Environmental Protection Trust Fund ("EPTF"). Payments shall be sent by first class mail and delivered to:

Illinois Environmental Protection Agency  
Fiscal Services  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

2. The case name and case number shall appear on the face of the certified check or money order.

3. A copy of the certified check or money order and any transmittal letter shall be sent to:

Kevin Garstka  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
69 W. Washington Street, Suite 1800  
Chicago, Illinois 60602

**D. Future Compliance**

1. In addition to any other authorities, the Illinois EPA, its employees and representatives, and the Attorney General, his employees and representatives, shall have the right of entry into and upon Respondent's Facility which is the subject of this Stipulation, at all reasonable times for the purposes of conducting inspections and evaluating compliance status. In conducting such inspections, the Illinois EPA, its employees and representatives, and the Attorney General, his employees and representatives, may take photographs, samples, and collect information, as they deem necessary.

2. This Stipulation in no way affects the responsibilities of Respondent to comply with any other federal, state or local laws or regulations, including but not limited to the Act and the Board Regulations.

3. Respondent shall cease and desist from future violations of the Act and Board Regulations that were the subject matter of the Complaint.

**E. Release from Liability**

In consideration of Respondent's payment of the \$5,000.00 penalty, its commitment to cease and desist as contained in Section V.D.3 above, and upon the Board's approval of this Stipulation, Complainant releases, waives and discharges Respondent from any further liability or penalties for the violations of the Act and Board Regulations that were the subject matter of the Complaint herein. The release set forth above does not extend to any matters other than those expressly specified in Complainant's Complaint filed on February 14, 2022. Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against Respondent with respect to all other matters, including but not limited to, the following:

- a. criminal liability;
- b. liability for future violation of state, federal, local, and common laws and/or regulations;
- c. liability for natural resources damage arising out of the alleged violations; and
- d. liability or claims based on Respondent's failure to satisfy the requirements of this Stipulation.

Nothing in this Stipulation is intended as a waiver, discharge, release, or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the State of Illinois may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315, or entity other than Respondent.

**F. Enforcement of Stipulation**

Upon the entry of the Board's Order approving and accepting this Stipulation, that Order is a binding and enforceable order of the Board and may be enforced as such through any and all

available means.

**G. Execution of Stipulation**

The undersigned representatives for the Parties to the Stipulation certify that they are fully authorized by the party whom they represent to enter into the terms and conditions of this Stipulation and to legally bind them to it.

WHEREFORE, the Parties to the Stipulation request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.


PEOPLE OF THE STATE OF ILLINOIS


ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

KWAME RAOUL  
Attorney General  
State of Illinois

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

JOHN J. KIM, Director  
Illinois Environmental Protection Agency

BY:   
STEPHEN J. SYLVESTER, Chief  
Environmental Bureau  
Assistant Attorney General


BY:   
CHARLES W. GUNNARSON  
Chief Legal Counsel

DATE: 2/8/23

DATE: 02/08/23

AZ SPE, LLC

BY: ATTHAD Zahdan

ITS: 

DATE: 1/3/2023