

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
by KWAME RAOUL, Attorney)	
General of the State of Illinois,)	
)	
Complainant,)	
)	
v.)	PCB No. 24-016
)	(Enforcement - Air)
NASSER YAFAI, an individual, QUICK GAS)	
& MINI MART, INC., a dissolved Illinois)	
corporation, CYPR Harvey, Inc. d/b/a)	
QUICK GAS & MINI MART, INC., an Illinois)	
corporation, and HARVEY REAL ESTATE, INC.,)	
an Illinois corporation,)	
)	
Respondents.)	

NOTICE OF FILING

To: Persons on Attached Service List:

PLEASE TAKE NOTICE that I have today caused to be filed with the Clerk of the Illinois Pollution Control Board by electronic filing the following Motion for Relief from Hearing Requirement and Stipulation and Proposed Settlement with Respondents Nasser Yafai, and Quick Gas & Mini Mart, Inc. only, true and correct copies of which are attached hereto and hereby served upon you.

PEOPLE OF THE STATE OF ILLINOIS,
KWAME RAOUL, Attorney General of the State of
Illinois

By: /s/ Cara V. Sawyer
Cara V. Sawyer
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington St., Suite 1800
Chicago, Illinois 60602
(773) 758-4583
cara.sawyer@ilag.gov

Dated: December 1, 2023

Service List

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

Counsel for Nasser Yafai & Quick Gas & Mini Mart, Inc.
c/o John Mrabie
Mraibie & Associates
14612 Humphrey Drive
Orland Park, IL 60462
john@mraibelaw.com
(Via Email)

CYPR Harvey, Inc. dba Quick Gas and Mini Mart, Inc.
Cyriac K. Chandy, Registered Agent
960 Rand Rd., Suite 208
Des Plaines, IL 60016-2355
(Via U.S. Mail)

Harvey Real Estate, Inc.
Cyriac K. Chandy, Registered Agent
960 Rand Rd., Suite 208
Des Plaines, IL 60016-2355
(Via U.S. Mail)

CERTIFICATE OF SERVICE

I, Cara V. Sawyer, as Assistant Attorney General, do certify that on this 1st day of December, 2023, I caused to be served a copy of the foregoing Notice of Filing and Motion for Relief from Hearing Requirement and Stipulation and Proposed Settlement with Respondents, Nasser Yafai and Quick Gas & Mini Mart, Inc. only, upon the person listed on the attached Service List by methods therein described.

/s/ Cara V. Sawyer
Cara V. Sawyer
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602
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Settlement filed this December 1, 2023.

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) (2022).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby requests that the Board grant this motion for relief from the hearing requirement as set forth in Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2022).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

KWAME RAOUL
Attorney General
State of Illinois

BY: /s/ Cara V. Sawyer
Cara V. Sawyer
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Dated: December 1, 2023

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
 by KWAME RAOUL, Attorney)
 General of the State of Illinois,)
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 Complainant,)
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 v.)
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 NASSER YAFAI, an individual, QUICK GAS)
 & MINI MART, INC., a dissolved Illinois)
 corporation, CYPR Harvey, Inc. d/b/a)
 QUICK GAS & MINI MART, INC., an Illinois)
 corporation, and HARVEY REAL ESTATE, INC.,)
 an Illinois corporation,)
)
 Respondents.)

PCB No. 24-016
(Enforcement - Air)

STIPULATION AND PROPOSAL FOR SETTLEMENT WITH RESPONDENTS
NASSER YAFAI AND QUICK GAS & MINI MART, INC. ONLY

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (“Illinois EPA”), and Nasser Yafai (“Yafai”) and Quick Gas & Mini Mart, Inc. (“Quick Gas”) (collectively the “Settling Respondents”), (together, “Parties to the Stipulation”), have agreed to the making of this Stipulation and Proposal for Settlement (“Stipulation”) and submit it to the Illinois Pollution Control Board (“Board”) for approval. This stipulation of facts is made and agreed upon for purposes of settlement only and as a factual basis for the Board’s approval of this Stipulation and issuance of relief. None of the facts stipulated herein shall be introduced into evidence in any other proceeding regarding the violations of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/1, et seq. (2022), and the Board’s regulations alleged in the Complaint except as otherwise provided herein. It is the intent of the Parties to the Stipulation that it be a final adjudication of this matter.

I. STATEMENT OF FACTS

A. Parties

1. On August 30, 2023, a Complaint was filed on behalf of the People of the State of Illinois by Kwame Raoul, Attorney General of the State of Illinois, on his own motion and upon the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2022), against Respondents.

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 (2022).

3. At all times relevant to the Complaint, Respondent Yafai was an individual, and was and is a resident of Illinois.

4. From at least December 31, 2016, until September 27, 2018, Respondent Yafai operated a gasoline dispensing facility located at 15355 Dixie Highway Harvey, Cook County, Illinois ("Facility").

5. From at least December 31, 2016 until September 27, 2018, when Respondent Quick Gas sold the Facility, Respondent Quick Gas owned and operated the Facility.

6. As of the date of filing of this Complaint, the Facility is located in an area of Environmental Justice ("EJ") concern as identified using Illinois EPA EJ Start.

7. Settling Respondents owned and/or operated gasoline dispensing pumps at the Facility that emitted volatile organic compounds ("VOCs") into the environment.

8. Respondents CYPR Harvey d/b/a Quick Gas & Mini Mart, Inc. or Harvey Real Estate, Inc. are not parties to this Stipulation.

B. Allegations of Non-Compliance

Complainant contends that Settling Respondents have 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) (2022), and Sections 218.586(i)(1)(B) and 218.586(i)(2)(C) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(1)(B) and 218.586(i)(2)(C).

C. Admission of Violations

Settling Respondents admit to the violations alleged in the Complaint filed in this matter and referenced within Section I.B herein.

II. APPLICABILITY

This Stipulation shall apply to and be binding upon the Parties to the Stipulation. Settling Respondents shall not raise as a defense to any enforcement action taken pursuant to this Stipulation the failure of any of their 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 Settling Respondents 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 (2022).

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

Section 33(c) of the Act, 415 ILCS 5/33(c) (2022), 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 were hindered by Settling Respondents' violations.

2. There was and 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 Settling Respondents' vapor collection and control system, and timely submission of a decommissioning checklist, certification, and test results to the Illinois EPA, were and are both technically practicable and economically reasonable.

IV. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h) (2022), 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. Respondents Quick Gas and Yafai failed to timely submit a decommissioning checklist, certification, and test results to the Illinois EPA. The violations began on January 1, 2017, and remained unresolved by Settling Respondents on September 27, 2018, the date on which Quick Gas sold the Facility.

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

3. 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.

4. To Complainant's knowledge, Settling Respondents have no previously adjudicated violations of the Act.

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

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

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

V. TERMS OF SETTLEMENT

A. Penalty Payment

Settling Respondents shall jointly and severally 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. Stipulated Penalties, Interest and Default

1. If Settling Respondents fails to make any payment required by this Stipulation on or before the date upon which the payment is due, Settling Respondents 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, the 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 Settling Respondents 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:

Cara V. Sawyer
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602

D. Future Compliance

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

2. Settling Respondents 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 Settling Respondents' payment of the \$5,000.00 penalty, their 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 the Setting Respondents 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 August 30, 2023.

Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against Settling Respondents 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 Settling Respondents' 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 (2022), or entity other than Settling Respondents.

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.

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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
KWAME RAOUL
Attorney General
State of Illinois

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

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

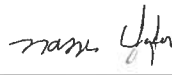
JOHN J. KIM, Director
Illinois Environmental Protection Agency

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

BY: 
CHARLES W. GUNNARSON
Chief Legal Counsel

DATE: 11/28/23

DATE: 11/28/23

Naser Yafai: 

Quick Gas & Mini Mart, Inc.

DATE: 11 / 22 / 2023

BY (print): KHALED M SAEED

ITS: PRESIDENT

SIGNATURE: 

DATE: 11 / 20 / 2023