



**RECEIVED**  
CLERK'S OFFICE  
JUL 14 2008  
STATE OF ILLINOIS  
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

**Lisa Madigan**  
ATTORNEY GENERAL

July 11, 2008

John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board  
James R. Thompson Center, Ste. 11-500  
100 West Randolph  
Chicago, Illinois 60601

Re: ***People v. William Warren, et al***  
**PCB No. 06-116**

Dear Clerk Gunn:

Enclosed for filing please find the original and ten copies of a Notice of Filing, Motion for Relief from Hearing Requirement and Stipulation and Proposal for Settlement in regard to the above-captioned matter. Please file the originals and return file-stamped copies to me in the enclosed, self-addressed envelope.

Thank you for your cooperation and consideration.

Very truly yours,

A handwritten signature in black ink, appearing to be "J. L. Homan", written over a horizontal line.

J. L. Homan  
Environmental Bureau  
500 South Second Street  
Springfield, Illinois 62706  
(217) 782-9031

JLH/pjk  
Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
)  
Complainant, )  
)  
vs. )  
)  
WILLIAM WARREN and HALLECK )  
WARREN, d/b/a Hickory Shores )  
Resort, and HICKORY SHORES )  
RECREATIONS, LTD., an Illinois )  
corporation, )  
)  
Respondents )

PCB No. 06-116  
(Enforcement)

RECEIVED  
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STATE OF ILLINOIS  
Pollution Control Board

NOTICE OF FILING

To: William Warren  
2890 Governors Drive  
P.O. Box 189  
Carlyle, IL 62231

Halleck Warren  
11021 West 96<sup>th</sup> Terrace  
Overland Park, KS 66214

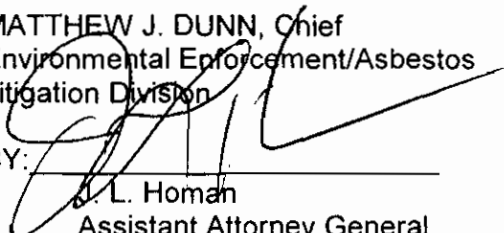
PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois, a MOTION FOR RELIEF FROM HEARING REQUIREMENT and STIPULATION AND PROPOSAL FOR SETTLEMENT, copies of which are attached hereto and herewith served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN,  
Attorney General of the  
State of Illinois

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

BY:   
J. L. Homan  
Assistant Attorney General  
Environmental Bureau

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: July 11, 2008

**CERTIFICATE OF SERVICE**

I hereby certify that I did on July 11, 2008, send by First Class Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instruments entitled NOTICE OF FILING, MOTION FOR RELIEF FROM HEARING REQUIREMENT and STIPULATION AND PROPOSAL FOR SETTLEMENT:

To: William Warren  
2890 Governors Drive  
P.O. Box 189  
Carlyle, IL 62231

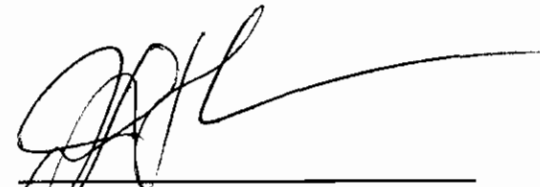
Halleck Warren  
11021 West 96<sup>th</sup> Terrace  
Overland Park, KS 66214

and the original and ten copies by First Class Mail with postage thereon fully prepaid of the same foregoing instrument(s):

To: John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
Suite 11-500  
100 West Randolph  
Chicago, Illinois 60601

A copy was also sent by First Class Mail with postage thereon fully prepaid to:

Carol Webb  
Hearing Officer  
Illinois Pollution Control Board  
1021 North Grand Avenue East  
Springfield, IL 62794



J. L. Homan  
Assistant Attorney General

This filing is submitted on recycled paper.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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PEOPLE OF THE STATE OF )  
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 Complainant, )  
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 vs. )  
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 WILLIAM WARREN and HALLECK )  
 WARREN, d/b/a Hickory Shores )  
 Resort, and HICKORY SHORES )  
 RECREATIONS, LTD., an Illinois )  
 corporation, )  
 )  
 Respondents )

PCB No. 06-116  
(Enforcement)

**MOTION FOR RELIEF FROM HEARING REQUIREMENT**

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and pursuant to Section 31(c)(2) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(c)(2) (2006), moves that the Illinois Pollution Control Board grant the parties in the above-captioned matter relief from the hearing requirement imposed by Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2006). In support of this motion, Complainant states as follows:

1. The parties have reached agreement on all outstanding issues in this matter.
2. This agreement is presented to the Board in a Stipulation and Proposal for Settlement, filed contemporaneously with this motion.
3. 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) (2006).

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) (2006).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS  
LISA MADIGAN  
ATTORNEY GENERAL

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

BY: \_\_\_\_\_

  
J. L. Homan  
Environmental Bureau  
Assistant Attorney General

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: July 11, 2008

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS, )  
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WILLIAM WARREN and HALLECK )  
WARREN, d/b/a HICKORY SHORES )  
RESORT, and HICKORY SHORES )  
RECREATIONS, LTD., an Illinois corporation, )  
)  
Respondents. )

PCB NO. 06-116  
(Enforcement)

STIPULATION AND PROPOSAL FOR SETTLEMENT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, the Illinois Environmental Protection Agency (“Illinois EPA”), and WILLIAM WARREN and HALLECK WARREN, d/b/a HICKORY SHORES RESORT, and HICKORY SHORES RECREATIONS, LTD., (“Respondents”), 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.* (2006), and the Board’s Regulations, alleged in the Complaint except as otherwise provided herein. It is the intent of the parties to this Stipulation that it be a final adjudication of this matter.

**I. STATEMENT OF FACTS**

**A. Parties to the Stipulation**

1. On December 27, 2005, a Complaint was filed on behalf of the People of the State of Illinois by Lisa Madigan, Attorney General of the State of Illinois, on her own motion and upon the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2006), against the 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 (2006).

3. At all times relevant to the Complaint, Respondents William Warren and Halleck Warren were individuals doing business as Hickory Shores Resort, and Respondent Hickory Shores Recreations, Ltd., was an Illinois corporation which was involuntarily dissolved in late 2005. At all times relevant to the Complaint, Respondents owned and operated Hickory Shores Resort, a facility located approximately one quarter mile west and three quarter miles south of the Village of Keyesport in Clinton County, Illinois ("Site").

4. William Warren's address is 2890 Governors Drive, P.O. Box 189, Carlyle, Illinois 62231. Halleck Warren's address is 11021 West 96<sup>th</sup> Terrace, Overland Park, Kansas 66214. Hickory Shore Recreations, Ltd., was incorporated as an Illinois corporation on or about April 6, 2001, and was the owner of Hickory Shores Resort from that date until the date of involuntary dissolution. The registered agent is Richard Stillwell, 2 West Broadway, Alton, Illinois 62002.

5. At all times relevant to the Complaint, the Hickory Shores Resort was a campground designed to serve one hundred fifty campsites with water and electricity, two comfort stations with showers, two sanitary dumping stations, an office building and a

recreational clubhouse.

6. Hickory Shores Resort also includes a wastewater treatment facility consisting of a ten thousand (10,000) gallon per day septic tank, a dosing tank (approximately 1,480 gallon capacity) with dual automatic dosing siphons, and a ten thousand (10,000) square foot buried sand filter and effluent chlorinator. The chlorinator had been removed as of August 15, 2000.

7. The wastewater treatment facility discharges to Carlyle Lake, which is part of the Kaskaskia River, and a surface water drinking supply.

#### **B. Allegations of Non-Compliance**

Complainant and the Illinois EPA contend that the Respondent has violated the following provisions of the Act and Board regulations:

- Count I: Water Pollution, in violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2006), and 35 Ill. Adm. Code 305.102.
- Count II: Reporting Violations, in violation of Section 12(f) of the Act, 415 ILCS 5/12(f) (2006), 35 Ill. Adm. Code 305.102, and Special Conditions 7 and 8 of the Respondent's NPDES permit.

#### **C. Non-Admission of Violations**

The 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, the Respondent does not affirmatively admit the allegations of violation within the Complaint and referenced within Section III.C herein, and this Stipulation shall not be interpreted as including such admission.



#### **D. Compliance Activities to Date**

The Respondents have instituted some changes to the waste water treatment plant and have also been in contact with the Illinois EPA in an attempt to better manage their effluent.

### **II. APPLICABILITY**

This Stipulation shall apply to and be binding upon the Complainant, the Illinois EPA and the Respondent, and any officer, director, agent, or employee of the Respondent, as well as any successors or assigns of the Respondent. The 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 the 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 (2006).

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

Section 33(c) of the Act, 415 ILCS 5/33(c)(2006), 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 this Stipulation state the following:

1. Human health and the environment were threatened and the Illinois EPA's information gathering responsibilities hindered by the Respondent's violations.
2. There is social and economic benefit to the facility.
3. Operation of the facility was suitable for the area in which it occurred.
4. Compliance with the terms of the permit is both technically practicable and economically reasonable.
5. Respondent has subsequently complied with the Act and the Board Regulations, although there have been occasional permit exceedences since the date of filing of the Complaint.

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

Section 42(h) of the Act, 415 ILCS 5/42(h)(2006), 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; and
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.

In response to these factors, the parties to this Stipulation<sup>st</sup>ate as follows:

1. The violations began on or around September, 2002, and were individually resolved at various times in the following year.
2. Respondent was diligent in attempting to come back into compliance with the Act, Board regulations and applicable federal regulations, once the Illinois EPA notified it of its noncompliance.
3. The Respondent received some economic benefit from noncompliance; however, any benefit realized from noncompliance has been more than offset by the costs of returning to compliance.
4. Complainant has determined, based upon the specific facts of this matter, that a *penalty of Three Thousand Five Hundred Dollars (\$3,500.00)* will serve to deter further

violations and aid in future voluntary compliance with the Act and Board regulations.

5. To Complainant's and the Illinois EPA's knowledge, Respondent has no previously adjudicated violations of the Act.

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

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

## **V. TERMS OF SETTLEMENT**

### **A. Penalty Payment**

1. The Respondent shall pay a civil penalty in the sum of Three Thousand Five Hundred Dollars (\$3,500.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

### **B. Stipulated Penalties, Interest and Default**

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

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, IL 62794-9276

The name, case number and the Respondent’s federal tax identification number shall appear on the face of the certified check or money order. A copy of the certified check or money order and any transmittal letter shall be sent to:

Environmental Bureau  
Illinois Attorney General’s Office  
500 South Second Street  
Springfield, Illinois 62706

**D. Future Compliance**

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

**F. Release from Liability**

In consideration of the Respondent's payment of the \$3,500.00 penalty and any specified costs and accrued interest, completion of all activities required hereunder, and upon the Board's approval of this Stipulation, the Complainant releases, waives and discharges the 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 December 27, 2005. The Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against the 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 the 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 or the Illinois EPA may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315, or entity other than the Respondent.

**H. Enforcement and Modification 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.

**I. Execution of Stipulation**

The undersigned representatives for each party to this 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 this Stipulation request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

PEOPLE OF THE STATE OF ILLINOIS, FOR THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

LISA MADIGAN  
Attorney General  
State of Illinois

DOUGLAS P. SCOTT, Director  
Illinois Environmental Protection Agency

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

BY: [Signature]  
THOMAS DAVIS, Chief  
Environmental Bureau  
Assistant Attorney General

BY: [Signature]  
ROBERT A. MESSINA  
Chief Legal Counsel

DATE: 7/10/08

DATE: 7/8/08

William Warren  
WILLIAM WARREN, Individually  
and d/b/a HICKORY SHORES  
RESORT  
William Warren  
attorney in fact for  
Halleck Warren  
HALLECK WARREN, Individually  
and d/b/a HICKORY SHORES  
RESORT

DATE: 6/26/08

HICKORY SHORES RECREATIONS,  
LDT., an Illinois dissolved corporation

BY: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_