

ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS)	
)	
Complainant,)	
)	
v.)	PCB 08-17
)	
FELKER PHARMACY, INC., an Illinois)	(Enforcement-Water)
corporation, and ROD BENNETT)	
CONSTRUCTION, INC., an Illinois)	
corporation,)	
)	
Respondents,)	
)	
)	
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ROD BENNETT CONSTRUCTION, INC.)	
)	
Third Party Complainant)	
)	
v.)	PCB 08-17
)	(Citizens Enforcement – Water)
MCCLELLAN BLAKEMORE)	(Third-Party Complaint)
ARCHITECTS, INC., an Illinois)	
corporation, and WENDLER)	
ENGINEERING SERVICES,)	
INC., an Illinois corporation)	
)	
Third Party Respondents.)	

STIPULATION AND PROPOSAL FOR SETTLEMENT

Rod Bennett Construction, Inc. (Respondent), by and through its attorney, James E. Meason, and Wendler Engineering Services, Inc. (Third Party Respondent Wendler), by and through its attorney, Hinshaw & Culbertson LLP, submit this Stipulation and Proposal for Settlement (Proposal) for the approval and entry by the Illinois Pollution Control Board (IPCB), stating as follows:

1. In an effort to avoid costly and time consuming litigation in this matter, Respondent and Third Party Respondent Wendler desire to settle their potential claims against one another.
2. Without admitting or denying any facts or assertions in this matter, Third Party Respondent Wendler will pay five thousand dollars (\$5,000.00) to Respondent in full satisfaction of all claims in this matter.

3. Third Party Respondent Wendler will pay the \$5,000.00 directly to Respondent within 30 days of Respondent's and Third Party Wendler's execution of the Proposal. The payment will be made payable to Rod Bennett Construction, Inc. and sent to the following address: James E. Meason, Attorney at Law, 113 W. Main Street, Rockton, IL 61072. Attorney Meason will hold these funds until IPCB enters an Order accepting and approving the Proposal. Thereafter, Attorney Meason will release the funds to Respondent. In the event that IPCB fails to enter such an Order, upon written notification by IPCB, Attorney Meason will return immediately the funds to Third Party Wendler.
4. Third Party Respondent Wendler's payment pursuant to this Proposal further is contingent upon the People of the State of Illinois, Felker Pharmacy, Inc., and Rod Bennett Construction, Inc. entering into a Stipulation and Proposal for Settlement (Stipulation) in this case and IPCB's subsequent entry of an order approving and accepting the Stipulation.
5. Upon payment of \$5,000.00 to Respondent by Third Party Respondent Wendler, Respondent agrees to indemnify and hold harmless McClellan Blakemore Architects, Inc. (Third Party MBA) and Third Party Wendler as to any further action by the People of the State of Illinois in the Complaint or Third-Party Complaint.
6. Respondent further will file contemporaneously with IPCB's entry of the Order a Motion to Dismiss With Prejudice the Third Party Complaint against Third Party Wendler and Third Party MBA.
7. Should Third Party Respondent Wendler fail to pay Respondent the \$5,000.00 as agreed, Respondent may file a Petition for Rule to Show Cause with IPCB.
8. This Proposal may be executed in component parts, with the executed signature pages constituting each party's assent to the terms and conditions contained herein.

Respectfully submitted,

Rod Bennett Construction, Inc., Respondent

By: _____
James E. Meason
Counsel for Respondent

Date: _____

Wendler Engineering Services, Inc., Third Party Respondent

By: _____ Date: _____
Thomas H. Boswell
Hinshaw & Culbertson LLP
Counsel for Third Party Respondent

McClellan Blakemore Architects, Inc., Third Party Respondent

By: _____ Date: _____
John Lanpher
Guyer & Enichen
Counsel for Third Party Respondent

Prepared by:
James E. Meason
Attorney at Law
113 W. Main Street
Rockton, IL 61072-2416
(815) 624-6517

c:\my docs\law\bennettfelker\agreed third party settlement order

CERTIFICATE OF SERVICE

Pursuant to the Illinois Pollution Control Board regulations, specifically 35 Ill. Admin. Code 101.304(c), I certify that on October 22, 2008, I sent via U.S. mail from Rockton, Illinois, at 11:00 a.m. the Stipulation and Proposal for Settlement to the following persons:

Illinois Pollution Control Board
100 W. Randolph
Suite 11-500
Chicago, Illinois 60601

Stephen J. Sylvester, Esq.
Assistant Attorney General
Environmental Bureau
69 W. Washington Street, Suite 1800
Chicago, IL 60602

Eric D. Morrow, Esq.
Smith Hahn Morrow & Floski, P.C.
129 S. Fourth Street
P.O. Box 10
Oregon, IL 61061-0010

John D. Lanpher, Esq.
Agent, McClellan Blakemore Architects, Inc.
2601 Reid Farm Road Suite B
Rockford, IL 61114

Thomas H. Boswell, Esq.
Wendler Engineering Services, Inc.
Hinshaw & Culbertson LLP
100 Park Avenue
P.O. Box 1389
Rockford, IL 61105-1389

Rod Bennett Construction, Inc.

By: _____
James E. Meason
Respondent's Attorney