

## **IL Court Rules That BP Can Be Penalized by Village for Abandoned Gasoline Service Station**

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The Illinois Appellate Court, First District, recently issued an opinion in *Village of Northfield v. BP America, Inc.*, No. 1-10-0142, which concerned an abandoned gasoline service station currently on BP's property at 1900 Willow Road in Northfield, Illinois.

The Village of Northfield issued BP a citation alleging that the abandoned gasoline service station constituted a public nuisance in violation of the Northfield Village Code. A service station is defined as "abandoned" under the Code if it is not operated for at least 300 hours in any 60-day time period. The Village Code further provides that any person causing a nuisance shall be fined not less than \$100, and not more than \$750, each day that the nuisance continues.

The Trial Court initially ordered BP to pay a daily fine of \$750 for 21 days, totaling \$15,750. However, the Court then reversed itself, ruling that BP was not required to pay a fine because the Village's ordinance was preempted by Illinois statute.

The Appellate Court reversed. In fact, the Court held that State law specifically provided the Village with the authority to enact the ordinance. The Court then held that State law did not preempt local ordinances that provide alternative methods for defining and abating nuisances.

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