

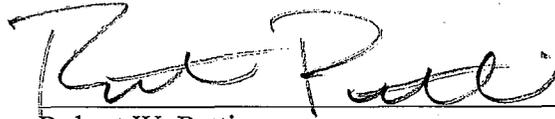
Service List

John Therriault
Assistant Clerk
Illinois Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, IL 60601
(by electronic filing)

Mr. Samuel Harrod
Meltzer Purtil & Stelle, LLC
1515 E. Woodfield Road, Second Floor
Schaumburg, Illinois 60173

CERTIFICATE OF SERVICE

I, Robert W. Petti, an Assistant Attorney General, certify that on the 30th day of September 2013, I caused to be served by U.S. Certified Mail (return receipt requested), the foregoing Notice of Filing, Motion for Relief From Hearing Requirement Regarding Stipulation with R. A. Peterson, Inc., and Certificate of Service to the parties named on the attached Service List, by depositing same in postage prepaid envelopes with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois 60601.

A handwritten signature in black ink, appearing to read "Robert Petti", written over a horizontal line.

Robert W. Petti
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602
(312) 814-2069

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) (2012).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN
Attorney General, State of Illinois

BY:



Robert W. Petti
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602
(312) 814-0608

DATE: September 30, 2013

Service List

John Therriault
Assistant Clerk
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100 West Randolph Street, Suite 11-500
Chicago, IL 60601
(by electronic filing)

Mr. Samuel Harrod
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1515 E. Woodfield Road, Second Floor
Schaumburg, Illinois 60173

CERTIFICATE OF SERVICE

I, Robert W. Petti, an Assistant Attorney General, certify that on the 30th day of September 2013, I caused to be served by U.S. Certified Mail (return receipt requested), the foregoing Notice of Filing, Complaint and Certificate of Service to the parties named on the attached Service List, by depositing same in postage prepaid envelopes with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois 60601.



Robert W. Petti
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602
(312) 814-2069

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB No. 13-69
)	(Enforcement - Water)
R. A. PETERSON, INC., an Illinois)	
corporation,)	
)	
Respondent.)	

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 R. A. Peterson, Inc., an Illinois corporation ("Respondent"), (collectively "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. (2012), 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 June 14, 2013, 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 (2012), against the 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 (2012).

3. At all times relevant to the Complaint, Respondent was and is an Illinois corporation that is authorized to transact business in the State of Illinois.

4. At all times relevant to the Complaint, Respondent owned and operated an asphalt paving and maintenance business.

5. From on or about May 26, 2012 through May 28, 2012, Respondent performed asphalt maintenance services at 750 Lake Cook Road, Buffalo Grove, Lake County, Illinois (the "Site").

B. Allegations of Non-Compliance

Complainant contends 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) (2012);

Count II: Water Pollution Hazard, in violation of Section 12(d) of the Act, 415 ILCS 5/12(d) (2012);

Count III: Offensive Conditions, in violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2012), and Section 302.203 of the Board Water Pollution Regulations, 35 111. Adm. Code 302.203.

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 I.B herein, and this Stipulation shall not be interpreted as including such admission.

D. Compliance Activities to Date

Upon being informed of the discharge of asphalt seal coating materials into the retention pond at the Site, Respondent worked with the owner of the Site, Hamilton Properties, Inc., to contain and remediate the impacted waters. An environmental response company, Environmental Restoration, LLC, was retained by Hamilton Properties for remediation of the Site, and Respondent reimbursed Hamilton Properties for all costs associated with the remediation.

Respondent has also taken steps to ensure that its sealcoating activities do not result in the discharge of asphalt sealcoating materials into the waters of the State, including: (i) reviewing its existing procedures (contained in its safety policies) for handling and reporting environmental issues; (ii) instituting new procedures to make sure that all manholes are covered during sealcoating work to prevent and/or minimize any potential for runoff; and (iii) then reviewing its existing procedures with its employees.

II. APPLICABILITY

This Stipulation shall apply to and be binding upon the Parties to the Stipulation. 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 (2012).

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

Section 33(c) of the Act, 415 ILCS 5/33(c) (2012), 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. The environment was threatened by the Respondent's violations.
2. There is social and economic benefit to the Respondent's maintenance activities.
3. Maintenance practices of the Respondent were and are suitable for the area in which they were performed.
4. It is technically practical and economically reasonable to prevent seal coating materials from entering waters of the State.
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) (2012), 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. The Complainant contends that while performing work on the parking lot at the Site, a petroleum-based product was released into a retention pond at the Site. The violations began on or around May 26, 2012 and were resolved no later than June 4, 2012.
2. Respondent was diligent in attempting to perform the necessary actions to bring the condition of the retention pond at the Site back into compliance with the Act and Board regulations once notified of the noncompliance.
3. Any economic benefit derived by Respondent from the violations will be recouped as part of the civil penalty to be paid in this matter.
4. Complainant has determined, based upon the specific facts of this matter, that a penalty of \$10,500.00 will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.
5. To Complainant'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.

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

V. TERMS OF SETTLEMENT

A. Penalty Payment

1. The Respondent shall pay a civil penalty in the sum of \$10,500.00 within thirty (30) days from the date the Board adopts and accepts this Stipulation.

B. 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

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:

Robert W. Petti
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 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.

2. The 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 the Respondent's payment of the \$10,500.00 penalty and any accrued interest, its commitment to cease and desist as contained in Section V.D.2 above, 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 June 14, 2013. 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 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.

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

LISA MADIGAN
Attorney General
State of Illinois

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

LISA BONNETT, Director
Illinois Environmental Protection Agency

BY: Elizabeth Wallace/rb
ELIZABETH WALLACE, Chief
Assistant Attorney General
Environmental Bureau

BY: [Signature]
JOHN T. KIM
Chief Legal Counsel

DATE: 9/27/13

DATE: 9/18/13

R. A. Peterson, Inc.

By: _____

Its: _____

DATE: _____

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN
Attorney General
State of Illinois

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

BY: _____
ELIZABETH WALLACE, Chief
Assistant Attorney General
Environmental Bureau

DATE: _____

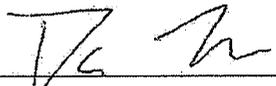
ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

LISA BONNETT, Director
Illinois Environmental Protection Agency

BY: _____
JOHN J. KIM
Chief Legal Counsel

DATE: _____

R. A. Peterson, Inc.

By: 
Its: President

DATE: 9-27-13