

CERTIFICATE OF SERVICE

I, ELLEN O'LAUGHLIN, an Assistant Attorney General, do certify that I caused to be served on this 22nd day of December, 2014, the foregoing Notice of Filing, Complaint, Stipulation, Proposed Settlement and Motion for Relief from Hearing Requirement by U.S. Certified Mail (return receipt requested), upon the following person:

Spaeth Welding
Attn: Marvin Spaeth
321 West Missouri Street
New Baden, Illinois 62265

by depositing true and correct copies of the same in an envelope, certified mail postage prepaid, with the United States Postal Service located at 100 W. Randolph Street, Chicago, Illinois 60601, at or before the hour of 5:00 p.m.



Ellen O'Laughlin

Missouri Street, New Baden, Clinton County, Illinois ("Facility"). Respondent utilizes sand blast media in its welding and fabricating processes at its Facility. Adjacent to the Facility is a farm field owned by Respondent ("Site").

5. In January of 2007 the Illinois EPA sent a Violation Notice to Respondent because Respondent was giving its spent sand blast media sand to local municipalities to be used as fill. Analytical results of the spent sand blast media indicated that it was non-hazardous. After receiving the Violation Notice, Respondent transported its spent sand blast media to a permitted landfill and Respondent agreed to not open dump spent media in the future.

6. On April 4, 2013, the Illinois EPA inspected the Facility and the adjacent farm field after a complaint of open dumping at a farm field was received by the Illinois EPA.

7. During the inspection, the Illinois EPA inspector learned from the Respondent that Respondent had been land applying spent sand blast media along the southern and eastern edges of the adjacent farm field. The Illinois EPA inspector observed the spent sand blast media along the southern edge that continued around the southwest corner and up the western edge of the farm field.

8. The Respondent informed the Illinois EPA inspector that Respondent had been spreading spent sand blast media on the adjacent farm field for the previous two years. The Respondent stated that the media was used to prepare aluminum and painted steel. Respondent, at times, conducted sandblasting operations of larger parts behind the Facility, outside.

9. Following the April 4, 2013 inspection by the Illinois EPA, Respondent agreed to cease dumping of spent sand blast media on the Site, to remove spent blast media from the farm field until visually clean and to properly dispose of spent blast media at a permitted landfill. Respondent later provided receipts to the Illinois EPA showing that spent blast media had been

removed and disposed at a permitted landfill.

10. On April 5, 2013, the Illinois EPA conducted a Compliance Sampling Inspection at the Facility and of the spent sand blast media on the farm field adjacent to the Facility.

Testing results indicated that the spent sand blast media was a non-hazardous waste.

11. Section 21(a) of the Act, 415 ILCS 5/21(a) (2012), provides, in pertinent part, as follows:

No person shall:

a) Cause or allow the open dumping of any waste.

* * *

12. Section 3.315 of the Act, 415 ILCS 5/3.315 (2012), provides, as follows:

“PERSON” is an individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

13. Respondent Spaeth Welding is a “person” as that term is defined by Section 3.315 of the Act, 415 ILCS 5/3.316 (2012).

14. Section 3.535 of the Act, 415 ILCS 5/3.535 (2012), provides, in pertinent part, as follows:

“WASTE” means any garbage...or any other discarded material, including any solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities....

15. Section 3.385 of the Act, 415 ILCS 5/3.385 (2012), provides, as follows:

“REFUSE” means waste.

16. The spent sand blast media at the Site is “discarded material”, and “waste” as that term is defined by Section 3.535 of the Act, 415 ILCS 5/3.535 (2012), and therefore also “refuse” as defined by Section 3.385 of the Act, 415 ILCS 5/3.385 (2012).

17. Section 3.185 of the Act, 415 ILCS 5/3.185 (2012), provides, as follows:

“DISPOSAL” means the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste or hazardous waste into or on any land or water or into any well so that such waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

18. Section 3.460 of the Act, 415 ILCS 5/3.460 (2012), provides, as follows:

“SITE” means any location, place, tract of land, and facilities, including but not limited to buildings, and improvements used for purposes subject to regulation or control by this Act or regulations thereunder.

19. Waste was deposited at the Site in a manner such that the waste had entered the environment and could be emitted into the air. The Site is therefore a “disposal site” as that term is defined and used in the Act.

20. Section 3.305 of the Act, 415 ILCS 5/3.305 (2012), provides, as follows:

“OPEN DUMPING” means the consolidation of refuse from one or more sources at a disposal site that does not fulfill the requirements of a sanitary landfill.

21. Section 3.445 of the Act, 415 ILCS 5/3.445 (2012), provides, in pertinent part, as follows:

“SANITARY LANDFILL” means a facility permitted by the Agency for the disposal of waste on land meeting the requirements of the Resource Conservation and Recovery Act, P.L 94-580,....

22. At all times relevant to this Complaint, the Site was not permitted by the Illinois EPA for the disposal of waste, and thus did not fulfill the requirements of a sanitary landfill.

23. By causing and allowing the dumping of spent sand blast media at the Site, the Respondent caused or allowed the open dumping of waste. The Respondent thereby violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2012).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Pollution Control Board enter an order against Respondent, SPAETH

WELDING, with respect to Count I:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations contained herein;
2. Finding that Respondent has violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2012);
3. Ordering the Respondent to cease and desist from any further violations of Section 21(a) of the Act, 415 ILCS 5/21(a) (2012);
4. Assessing a civil penalty against the Respondent of Fifty Thousand Dollars (\$50,000.00) for each and every violation of the Act, with an additional penalty of Ten Thousand Dollars (\$10,000.00) per day of violation;
5. Taxing all costs of this action to the Respondent pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2012), including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and
6. Granting such other relief as the Board deems appropriate and just.

COUNT II

CONDUCTING A WASTE DISPOSAL OPERATION WITHOUT A PERMIT

- 1-18. Complainant realleges and incorporates by reference herein, paragraphs 1 through 10, and paragraphs 12 through 19 of Count I, as paragraphs 1 through 18 of this Count II.
19. Beginning at a time best known to Respondent until at least April of 2013, the Respondent caused or allowed waste to be discarded and dumped on the ground at the Site.
20. The Respondent failed to apply for and obtain an Illinois EPA permit to authorize waste disposal operations at the Site.
21. Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2012), provides, in pertinent

part, as follows:

No person shall:

* * *

d. Conduct any waste-storage, waste-treatment, or waste-disposal operation:

1. Without a permit granted by the Agency or in violation of any conditions imposed by such permit....

22. The Respondent caused or allowed the disposal of waste at the Site, and thereby conducted a waste disposal operation, without having applied for or obtained a permit from Illinois EPA.

23. By conducting a waste disposal operation without an Illinois EPA-issued permit, the Respondent violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2012).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Pollution Control Board enter an order against Respondent, SPAETH WELDING, with respect to Count II:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations contained herein;

2. Finding that Respondent has violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2012);

3. Ordering the Respondent to cease and desist from any further violations of Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2012);

4. Assessing a civil penalty against the Respondent of Fifty Thousand Dollars (\$50,000.00) for each and every violation of the Act, with an additional penalty of Ten Thousand Dollars (\$10,000.00) per day of violation;

5. Taxing all costs of this action to the Respondent pursuant to Section 42(f) of the

Act, 415 ILCS 5/42(f) (2012), including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board deems appropriate and just.

COUNT III

DEVELOPING AND OPERATING A LANDFILL WITHOUT A PERMIT

1-20. Complainant realleges and incorporates by reference herein, paragraphs 1 through 10, paragraphs 12 through 19, and paragraphs 21 through 22 of Count I, as paragraphs 1 through 20 of this Count III.

21. Section 21(d)(2) of the Act, 415 ILCS 5/21(d) (2) (2012), provides, in pertinent part, as follows:

No person shall:

* * *

d. Conduct any waste-storage, waste-treatment, or waste-disposal operation:

* * *

2. In violation of any regulations or standards adopted by the Board under this Act;

22. Pursuant to authority granted under the Act, the Illinois Pollution Control Board (“Board”) has promulgated regulations regulating the disposal of solid waste, codified at 35 Ill. Adm. Code, Subchapter i (“Board Waste Disposal regulations”)

23. Section 812.101 of the Board Waste Disposal regulations, 35 Ill. Adm. Code 812.101, provides, in pertinent part, as follows:

Section 812.101 Scope and Applicability

- a) All persons, except those specifically exempted by Section 21(d) of the Environmental Protection Act (Act) (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 1021(d)) [415 ILCS 5/21(d)] shall submit to the Agency an application for a

permit to develop and operate a landfill. The applications must contain the information required by this Subpart and by Section 39(a) of the Act, except as otherwise provided in 35 Ill. Adm. Code 817.

24. Section 810.101 of the Board Waste Disposal regulations, 35 Ill. Adm. Code

810.101, provides, in pertinent part, as follows:

Section 810.101 Scope and Applicability

This Part applies to all solid waste disposal facilities regulated pursuant to 35 Ill. Adm. Code 811 through 817. This Part does not apply to hazardous waste management facilities regulated pursuant to 35 Ill. Adm. Code 700 through 750.

25. Section 810.103 of the Board Waste Disposal regulations, 35 Ill. Adm. Code

810.103, provides, in pertinent part, as follows:

Section 810.103 Definitions

Except as stated in this Section, or unless a different meaning of a word or term is clear from the context, the definition of words or terms in this Part will be the same as that applied to the same words or terms in the Environmental Protection Act (Act) [415 ILCS 5]:

* * *

“Disposal” means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water or into any well such that solid waste or any constituent of the solid waste may enter the environment by being emitted into the air or discharged into any waters, including groundwater. [415 ILCS 5/3.185] If the solid waste is accumulated and not confined or contained to prevent its entry into the environment, or there is no certain plan for its disposal elsewhere, such accumulation will constitute disposal.

* * *

“Special Waste” means any industrial process waste, pollution control waste, or hazardous waste, except as determined pursuant to Section 22.9 of the Act [415 ILCS 5/22.9] and 35 Ill. Adm. Code 808. [415 ILCS 5/3.475].

* * *

“Landfill” means a unit or part of a facility in or on which waste is placed and accumulated over time for disposal, and which is not a land application unit, a surface impoundment or an underground injection well. For the purposes of this

Part and 35 Ill. Adm. Code 811 through 815, landfills include waste piles, as defined in this Section.

* * *

“Solid Waste” means a waste that is defined in this Section as an inert waste, as a putrescible waste, as a chemical waste or as a special waste, and which is not also defined as a hazardous waste pursuant to 35 Ill. Adm. Code 721.

* * *

“Waste pile” means an area on which non-containerized masses of solid, non-flowing wastes are placed for disposal. For the purposes of this Part and 35 Ill. Adm. Code 811 through 815, a waste pile is a landfill, unless the operator can demonstrate that the wastes are not accumulated over time for disposal. At a minimum, such demonstration must include photographs, records, or other observable or discernible information, maintained on a yearly basis, that show that within the preceding year the waste has been removed for utilization or disposal elsewhere.

26. The spent sand blast media is a “special waste” as that term is defined in Section 810.103 of the Board Waste Disposal regulations, 35 Ill. Adm. Code 810.103.

27. The special waste is “solid waste” as that term is defined in Section 810.103 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 810.103.

28. The solid waste accumulated at the Site by the Respondent is unconfined, and was accumulated without a plan for disposal elsewhere. The Respondent’s accumulation of the solid waste at the Site constitutes “disposal” as that term is defined in Section 810.103 of the Board Waste Disposal regulations, 35 Ill. Adm. Code 810.103.

29. The Respondent accumulated and placed solid waste at the Site for disposal. Accordingly, the Site is a “landfill” as that term is defined in Section 810.103 of the Board’s Waste Disposal regulations, 35 Ill. Adm. Code 810.103.

30. The accumulation of waste at the Site also constitutes a “waste pile” as that term is defined in Section 810.103 of the Board’s Waste Disposal regulations. As a “waste pile”, the

Site is also a "landfill".

31. The Respondent developed and operated a landfill at the Site, without first applying for and obtaining a permit from Illinois EPA. The Respondent thereby violated Section 812.101 of the Board Waste Disposal regulations, and thereby also violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2012).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Pollution Control Board enter an order against Respondent, SPAETH WELDING, with respect to Count III:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations contained herein;
2. Finding that Respondent has violated Section 812.101 of the Board Waste Disposal regulations, 35 Ill. Adm. Code 812.101, and Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2012);
3. Ordering the Respondent to cease and desist from any further violations of Section 812.101 of the Board Waste Disposal regulations, 35 Ill. Adm. Code 812.101, and Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2012);
4. Assessing a civil penalty against the Respondent of Fifty Thousand Dollars (\$50,000.00) for each and every violation of the Act, with an additional penalty of Ten Thousand Dollars (\$10,000.00) per day of violation;
5. Taxing all costs of this action to the Respondent pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2012), including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and
6. Granting such other relief as the Board deems appropriate and just.

COUNT IV

WASTE DISPOSAL AT AN IMPROPER SITE

1-36. Complainant realleges and incorporates by reference herein, paragraphs 1 through 10, paragraphs 12 through 19, and paragraphs 21 through 22 of Count I, paragraphs 19 through 23 of Count II, and paragraphs 21 through 31 of Count III, as paragraphs 1 through 36 of this Count IV.

37. Section 21(e) of the Act, 415 ILCS 5/21(e) (2012), provides, as follows:

No person shall

* * *

e. Dispose, treat, store, or abandon any waste, or transport any waste into this State for disposal, treatment, storage or abandonment, except at a site or facility which meets the requirements of this Act and of regulations and standards thereunder.

38. Beginning at a time best known to Respondent until at least April of 2013, the Respondent disposed of spent sand blast media at the Site, a site that was not permitted for waste disposal by the Illinois EPA and therefore failed to meet the requirements of the Act and Board Waste Disposal regulations. The Respondent thereby violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2012).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Pollution Control Board enter an order against Respondent, SPAETH WELDING, with respect to Count IV:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations contained herein;
2. Finding that Respondent has violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2012);
3. Ordering the Respondent to cease and desist from any further violation of Section

21(e) of the Act, 415 ILCS 5/21(e) (2012);

4. Assessing a civil penalty against the Respondent of Fifty Thousand Dollars (\$50,000.00) for each and every violation of the Act, with an additional penalty of Ten Thousand Dollars (\$10,000.00) per day of violation;

5. Taxing all costs of this action to the Respondent pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2012), including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board deems appropriate and just.

COUNT V

OPEN DUMPING OF WASTE RESULTING IN LITTER

1-23. Complainant realleges and incorporates by reference herein paragraphs 1 through 23 of Count I as paragraphs 1 through 23 of this Count V.

24. Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2012), provides in pertinent part as follows:

No person shall:

* * *

(p) In violation of subdivision (a) of this Section, cause or allow the open dumping of any waste in a manner which results in any of the following occurrences at the dump site:

1. litter

25. Section 3(a) of the Litter Control Act, 415 ILCS 105/3 (2012), provides the following definition:

“Litter” means any discarded, used or unconsumed substance or waste. “Litter” may include, but is not limited to, any garbage, trash, refuse, debris, rubbish, grass clippings or other lawn or garden waste, newspaper, magazines, glass, metal,

plastic or paper containers or other packaging construction material, abandoned vehicle (as defined in the Illinois Vehicle Code), motor vehicle parts, furniture, oil, carcass of a dead animal, any nauseous or offensive matter of any kind, any object likely to injure any person or create a traffic hazard, potentially infectious medical waste as defined in Section 3.360 of the Environmental Protection Act, or anything else of an unsightly or unsanitary nature, which has been discarded, abandoned or otherwise disposed of improperly.

26. The Illinois EPA inspector observed spent sand blast media materials that Respondent placed, deposited, or otherwise consolidated at the Site and were discarded by Respondent, and therefore constitute "litter" as that term is defined in Section 3(a) of the Litter Control Act, 415 ILCS 105/3 (2012).

27. Beginning at a time best known to Respondent until April of 2013, Respondent caused the open dumping of waste at the Site in a manner which resulted in litter, in violation of Section 21(p)(1) of the Act, 415 ILCS 21(p)(1) (2012).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Pollution Control Board enter an order against Respondent, SPAETH WELDING, with respect to Count V:

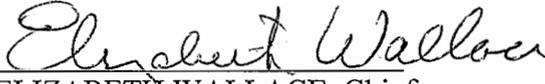
1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations contained herein;
2. Finding that Respondent has violated Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2012);
3. Ordering the Respondent to cease and desist from any further violations of Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2012);
4. Assessing a civil penalty against the Respondent of Fifty Thousand Dollars (\$50,000.00) for each and every violation of the Act, with an additional penalty of Ten Thousand Dollars (\$10,000.00) per day of violation;

5. Taxing all costs of this action to the Respondent pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2012), including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board deems appropriate and just.

PEOPLE OF THE STATE OF ILLINOIS
ex rel. LISA MADIGAN, Attorney General
of the State of Illinois

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

BY: 
ELIZABETH WALLACE, Chief
Environmental Bureau
Assistant Attorney General

Of Counsel
Ellen F. O'Laughlin
Assistant Attorney General
Environmental Bureau
69 West Washington Street, Suite 1800
Chicago, Illinois 60602
(312) 814-3094

* * *

3. No hearing is now scheduled in this matter.
4. The Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby requests relief from the requirement of a hearing pursuant to 415 ILCS 5/31(c)(2) (2010).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS
by LISA MADIGAN,
Attorney General of the
State of Illinois

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

BY:


ELLEN O'LAUGHLIN
Assistant Attorney General
Environmental Bureau
69 W. Washington St., #1800
Chicago, Illinois 60602
(312) 814-3094

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 domestic corporation that is authorized to transact business in the State of Illinois.

4. The Respondent owns and operates a welding and fabricating facility at 321 West Missouri Street, New Baden, Clinton County, Illinois ("Facility"), and utilizes sand blast media in its welding and fabricating processes at its Facility. In April of 2013, the Illinois EPA found that the Respondent had been land applying and spreading spent sand blast media on an adjacent farm field that Respondent owns for the previous two years ("Site").

B. Allegations of Non-Compliance

Complainant contends that the Respondent has violated the following provisions of the Act and Board Regulations:

- Count I Open Dumping, in violation of Section 21(a) of the Act.
- Count II Conducting a Waste Disposal Operation without a Permit in violation of Section 21(d)(1) of the Act.
- Count III Developing and Operating a Landfill without a Permit in violation of Section 812.101 of the Board Waste Disposal regulations, and Section 21(d)(2) of the Act.
- Count IV Waste Disposal at an Improper Site in violation of Section 21(e) of the Act
- Count V Open Dumping of Waste Resulting in Litter, in violation of Section 21(p)(1) of the Act

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.

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. Human health and the environment were threatened and the Illinois EPA's information gathering responsibilities were hindered by the Respondent's violations.
2. There 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. Properly disposing spent sand blast media in a permitted Illinois EPA disposal site is both technically practicable and economically reasonable.
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 Respondent disposed spent sand blast media at the Site from at least 2011 until April of 2013.
2. Respondent was diligent in attempting to come back into compliance with the Act and Board Regulations, once the Illinois EPA notified it of its noncompliance.
3. Respondent benefitted economically by avoiding the cost of proper disposal fees for the spent sand blast material.
4. Complainant has determined, based upon the specific facts of this matter, that a penalty of ten thousand dollars (\$10,000.00) 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 Ten Thousand Dollars (\$10,000.00) within thirty (30) calendar 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

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:

Ellen O'Laughlin
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602

D. Future Compliance

1. In addition to any other authorities, the Illinois EPA, its employees and representatives, and the Attorney General, her employees and representatives, shall have the right of entry into and upon the Respondent's Facility and Site which is the subject of this Stipulation, at all reasonable times for the purposes of conducting inspections and evaluating compliance status. In conducting such inspections, the Illinois EPA, its employees and representatives, and the Attorney General, her employees and representatives, may take photographs, samples, and collect information, as they deem necessary.

2. 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.

3. 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 \$10,000.00 penalty, 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 December 22, 2014. 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 (2012), or entity other than the Respondent.

F. 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.

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.

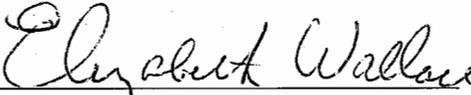
WHEREFORE, the Parties to the Stipulation request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

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, Chief
Assistant Attorney General
Environmental Bureau

BY: 
JOHN J. KIM
Chief Legal Counsel

DATE: 12/17/14

DATE: 12/16/14

SPAETH WELDING, INC

Its: _____

| DATE: _____

SPAETH WELDING, INC

Darlene Spaid

Its: Secy Treas.

DATE: 12-1-14