

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

<b>PEOPLE OF THE STATE OF ILLINOIS,</b>	)	
	)	
<b>Complainant,</b>	)	
	)	
<b>v.</b>	)	<b>PCB NO.</b>
	)	<b>(Enforcement)</b>
	)	
<b>TANK'S AUTO BODY L.L.C.,</b>	)	
<b>an Illinois limited liability corporation,</b>	)	
	)	
<b>Respondent.</b>	)	

**NOTICE OF ELECTRONIC FILING**

PLEASE TAKE NOTICE that on March 4, 2015, I electronically filed with the Clerk of the Pollution Control Board of the State of Illinois, c/o John T. Therriault, Assistant Clerk, James R. Thompson Center, 100 W. Randolph St., Ste. 11-500, Chicago, IL 60601 a COMPLAINT, STIPULATION AND PROPOSAL FOR SETTLEMENT, and MOTION FOR RELIEF FROM HEARING REQUIREMENT 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: s/Elizabeth Dubats  
ELIZABETH DUBATS  
Assistant Attorney General  
Environmental Bureau

Elizabeth Dubats #6308913  
500 South Second Street  
Springfield, Illinois 62706  
217-782-9035

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<b>an Illinois limited liability corporation,</b>	)	
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<b>Respondent.</b>	)	

**COMPLAINT**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, TANK'S AUTO BODY, L.L.C., as follows:

**COUNT I**

**UNLAWFUL DISPOSAL OF HAZARDOUS WASTE**

1. This Complaint is brought by the Attorney General on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2012).
2. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2012), and charged, *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board ("Board").
3. This Complaint is brought pursuant to Section 31 of the Act, 415 ILCS 5/31 (2012), after providing the Respondent with notice and the opportunity for a meeting with the Illinois EPA.

4. Respondent, TANK'S AUTO BODY, L.L.C., is an Illinois limited liability company in good standing and authorized to do business in the State of Illinois. At all times relevant to this Complaint, the Respondent was the operator of a facility located at 113 West Sixth Street, Henry County, Illinois (the "facility").

5. The registered agent for Respondent, TANK'S AUTO BODY, L.L.C., is Ronald W. Tank, Jr., and its registered principal office is located at 113 West Sixth Street, Kewanee, Illinois.

6. At all times relevant to this complaint, Respondent's primary business at the facility was an automotive body repair and paint shop which generated paint solvent waste.

7. On July 10, 1986, Respondent submitted an initial notification to Illinois EPA as a small quantity generator of hazardous waste.

8. On August 27, 1997, Respondent submitted notification as a conditionally exempt small quantity generator of hazardous waste.

9. On February 20, 2013, Illinois EPA received a complaint alleging that Respondent was putting hazardous waste still bottoms into the general refuse.

10. On March 21, 2013, an Illinois EPA inspector conducted a Resource Conservation and Recovery Act ("RCRA") Citizen Complaint Investigation ("CCI") and Compliance Evaluation Inspection ("CEI") at the facility in response to the February 20, 2013 complaint.

11. During the CEI, a paint spray gun washer; a five-gallon container used for spent solvent prior to distillation in a solvent recovery system; a Sidewinder solvent recovery system; a liner removed from the system containing an approximately one-inch still bottom generated from five gallons of spent solvent; and a Waste Management dumpster were all present at the facility.

12. Respondent first purchased its solvent recovery system during or before 1989.

13. Approximately ten gallons of solvent is used monthly at the facility in cleaning paint spray guns.

14. Recycling the solvent at the facility generates approximately two gallons of still bottoms monthly.

15. Respondent has been generating still bottoms as part of facility operations for approximately 23 years.

16. During the approximately 23 years of operation, Respondent has been disposing of still bottoms in a non-hazardous waste dumpster.

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

No person shall

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(f) Conduct any hazardous waste-storage, hazardous waste-treatment or hazardous waste-disposal operation:

(1) without a RCRA permit for the site issued by the Agency under subsection (d) of Section 39 of this Act, or in violation of any condition imposed by such permit, including periodic reports and full access to adequate records and the inspection of facilities, as may be necessary to assure compliance with this Act and with regulations and standards adopted thereunder;

18. Section 3.220 of the Act, 415 ILCS 5/3.220 (2012), defines "hazardous waste" as follows:

§ 3.220. Hazardous waste. "Hazardous waste" means a waste, or combination of wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious, irreversible, or incapacitating reversible, illness; or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed, and

which has been identified, by characteristics or listing, as hazardous pursuant to Section 3001 of the Resource Conservation and Recovery Act of 1976, P.L. 94-580, or pursuant to Board regulations. ...

19. Section 3.185 of the Act, 415 ILCS 5/3.185 (2012), defines "disposal" as follows:

§ 3.185. Disposal. "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.

20. Section 3.480 of the Act, 415 ILCS 5/3.480 (2012), defines "storage" as follows:

"Storage" means the containment of waste, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal.

21. Section 3.475 of the Act, 415 ILCS 5/3.475 (2012), defines "special waste", in

pertinent part, as follows:

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- (b) hazardous waste, as determined in conformance with RCRA hazardous waste determination requirements set forth in Section 722.111 of Title 35 of the Illinois Administrative Code, including a residue from burning or processing hazardous waste in a boiler or industrial furnace unless the residue has been tested in accordance with Section 726.212 of Title 35 of the Illinois Administrative Code and proven to be nonhazardous;

22. Sections 703.121(a) and (b) of the Board's Waste Disposal Regulations,

35 Ill. Adm. Code 703.121(a) and (b) (2012), provides, in pertinent part, as follows

- a) No person may conduct any hazardous waste storage, hazardous waste treatment, or hazardous waste disposal operation as follows:
- 1) Without a RCRA permit for the HWM (hazardous waste management) facility; or
  - 2) In violation of any condition imposed by a RCRA permit.
- b) An owner or operator of a HWM unit must have permits during the active life (including the closure period) of the unit. ....

23. Section 722.134 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code

722.134, provides, in pertinent part, as follows (emphasis added):

- a) Except as provided in subsection (d), (e), (f), (g), (h), or (i) of this Section, a generator is exempt from all the requirements in Subparts G and H of 35 Ill. Adm. Code 725, except for 35 Ill. Adm. Code 725.211 and 725.214, and may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that the following conditions are fulfilled:

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- 4) The generator complies with the requirements for owners or operators in Subparts C and D of 35 Ill. Adm. Code 725, with 35 Ill. Adm. Code 725.116, and with all applicable requirements in 35 Ill. Adm. Code 728.107(a)(5).

24. Section 721.105(g) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code

721.105(g), provides, in pertinent part, as follows:

- g) In order for hazardous waste generated by a CESQG in quantities of 100 kilograms or less of hazardous waste during a calendar month to be excluded from full regulation under this Section, the generator must comply with the following requirements:

- 1) The hazardous waste determination requirements of 35 Ill. Adm. Code 722.111;

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- 3) A CESQG may either treat or dispose of its hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage, or disposal facility, any of which, if located in the United States, meets any of the following conditions:

- A) The facility is permitted under 35 Ill. Adm. Code 702 and 703;

- B) The facility has interim status under 35 Ill. Adm. Code 702, 703, and 725;

- C) The facility is authorized to manage hazardous waste by a state with a hazardous waste management program approved by USEPA pursuant to 40 CFR 271;
- D) The facility is permitted, licensed, or registered by a state to manage municipal solid waste and, if managed in a municipal solid waste landfill facility, the landfill is subject to 35 Ill. Adm. Code 810 through 814 or federal 40 CFR 258;
- E) The facility is permitted, licensed, or registered by a state to manage non-municipal non-hazardous waste and, if managed in a non-municipal non-hazardous waste disposal unit, the unit is subject to federal CESQG waste landfill disposal standards in 40 CFR 257.5 through 257.30;

25. Section 722.111 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code

722.111 (2012), provides as follows:

A person that generates a solid waste, as defined in 35 Ill. Adm. Code 721.102, must determine if that waste is a hazardous waste using the following method:

- a) The person should first determine if the waste is excluded from regulation under 35 Ill. Adm. Code 721.104.
- b) The person should then determine if the waste is listed as a hazardous waste in Subpart D of 35 Ill. Adm. Code 721.

BOARD NOTE: Even if a waste is listed as a hazardous waste, the generator still has an opportunity under 35 Ill. Adm. Code 720.122 to demonstrate that the waste from the generator's particular facility or operation is not a hazardous waste.

- c) For purposes of compliance with 35 Ill. Adm. Code 728, or if the waste is not listed as a hazardous waste in Subpart D of 35 Ill. Adm. Code 721, the generator must then determine whether the waste is identified in Subpart C of 35 Ill. Adm. Code 721 by either of the following methods:
  - 1) Testing the waste according to the methods set forth in Subpart C of 35 Ill. Adm. Code 721, or according to an equivalent method approved by the Board under 35 Ill. Adm. Code 720.121; or

- 2) Applying knowledge of the hazard characteristic of the waste in light of the materials or processes used.
- d) If the generator determines that the waste is hazardous, the generator must refer to 35 Ill. Adm. Code 721, 724 through 728, and 733 for possible exclusions or restrictions pertaining to the management of the specific waste.

26. Section 722.112 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 722.112 (2012), provides, in pertinent part, as follows:

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- c) A generator must not offer its hazardous waste to transporters or to treatment, storage or disposal facilities that have not received a USEPA identification number.

27. Section 722.120 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 722.120 (2012), provides, in pertinent part, as follows:

- a) A generator that transports hazardous waste or offers a hazardous waste for transportation for off-site treatment, storage, or disposal or a treatment, storage, or disposal facility that offers for transport a rejected load of hazardous waste must prepare a manifest on USEPA Form 8700-22 (and, if necessary, on USEPA Form 8700-22A) according to the instructions included in the appendix to 40 CFR 262 (Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions)), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

28. Section 722.123 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 722.123 (2012), provides, in pertinent part, as follows:

- a) The generator shall do the following:
  - 1) Sign the manifest certification by hand;
  - 2) Obtain the handwritten signature of the initial transporter and date of acceptance on the manifest;
  - 3) Retain one copy, in accordance with Section 722.140(a); and
  - 4) Send one copy of the manifest to the Agency within two working days.

29. Section 725.131 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 725.131 (2012), provides as follows:

Facilities must be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water that could threaten human health or the environment.

30. Section 808.121 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 808.121 (2012), provides as follows:

a) Each person who generates waste shall determine whether the waste is a special waste. BOARD NOTE: 35 Ill. Adm. Code 722 requires the person to also determine if the waste is a hazardous waste.

31. Section 808.122 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 808.122 (2012), provides as follows:

Except as otherwise provided by Section 808.121(b), the generator of any special waste shall prepare a manifest, as prescribed by 35 Ill. Adm. Code 809.501, prior to shipment.

32. Section 809.301 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 809.301 (2012), provides as follows:

No person may deliver any special waste generated within Illinois or for disposal, storage or treatment within Illinois unless that person concurrently delivers a manifest completed in accordance with Subpart E of this Part to a special waste transporter who holds a current special waste hauling permit issued by the Agency under Subpart B or C of this Part.

33. The solvent recovery system still bottoms generated by Respondent constitutes hazardous waste as defined in Section 3.220 of the Act, 415 ILCS 5/3.220 (2012).

34. On or around 1989, Respondent lost its Conditional Small Quantity Generator exemption from the requirements of 35 Ill. Adm. Code 722 under 35 Ill. Adm. Code 721.105(g) for failing to conduct a hazardous waste determination required by 35 Ill. Adm. Code 722.111

for the hazardous waste from the Sidewinder solvent recovery system and for disposing of hazardous waste still bottoms in a dumpster rather than disposing at a facility that meets the requirements of 35 Ill. Adm. Code 721.105(g)(3).

35. In or around 1989, Respondent lost its exemption from having a RCRA permit under 35 Ill. Adm. Code Part 722.134(a) for disposing of hazardous waste still bottoms in a dumpster for transportation to a facility that was not permitted for hazardous waste, and therefore failing to minimize the possibility of any unplanned sudden or non-sudden release of hazardous waste that could threaten human health or the environment, in violation of Section 725.131 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 725.131 (2012).

36. On July 24, 2014, Respondent returned to compliance with the Act and the Board's Waste Disposal Regulations by disposing of its still bottoms in a 55 gallon drum labeled as hazardous waste, contracting with Interstate Chemical to transport the still bottoms to a facility permitted to receive hazardous waste, and regaining its Small Generator exemption from the requirements of 35 Ill. Adm. Code 722 and its RCRA permit exemption.

37. Prior to July 24, 2014, by storing the still bottoms without a RCRA permit for a hazardous waste facility, Respondent violated Sections 703.121(a) and (b) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 703.121(a) and (b) (2012) and Section 21 of the Act, 415 ILCS 5/21 (2012).

38. Prior to July 24, 2014, Respondent generated solid waste, and in doing so failed to determine, using specified methods, if that waste was a hazardous waste, in violation of Section 722.111 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 722.111 (2012) and Section 21 of the Act, 415 ILCS 5/21 (2012).

39. Prior to July 24, 2014, Respondent generated waste while failing to determine whether the waste was a special waste, in violation of Section 808.121 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 808.121 (2012) and Section 21 of the Act, 415 ILCS 5/21 (2012).

40. Prior to July 24, 2014, Respondent offered the still bottoms for transportation by Waste Management for disposal at either the Kewanee Waste Transfer Station or the Knox County Landfill, neither of which has received a U.S. EPA identification number, in violation of Section 722.112(c) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 722.112(c) (2012) and Section 21 of the Act, 415 ILCS 5/21 (2012).

41. Prior to July 24, 2014, Respondent generated hazardous waste still bottoms and offered that hazardous waste for off-site disposal without having prepared a manifest on the requisite U.S. EPA forms, in violation of Section 722.120 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 722.120 (2012) and Section 21 of the Act, 415 ILCS 5/21 (2012).

42. Prior to July 24, 2014, Respondent generated special waste still bottoms and offered that special waste for off-site disposal without preparing a manifest as set forth in 35 Ill. Adm. Code 809.501 prior to shipment, in violation of Section 808.122 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 808.122 (2012) and Section 21 of the Act, 415 ILCS 5/21 (2012).

43. Prior to July 24, 2014, Respondent generated special waste still bottoms and delivered them for disposal within Illinois without delivering the requisite manifest to a special waste transporter who holds the requisite current special waste hauling permit issued by Illinois EPA, in violation of Section 809.301 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 809.301 (2012) and Section 21 of the Act, 415 ILCS 5/21 (2012).

44. Prior to July 24, 2014, Respondent generated hazardous waste still bottoms and offered that special waste for off-site disposal without signing the manifest certification by hand; obtaining the handwritten signature of the initial transporter and the date of acceptance of the manifest; retaining one copy in accordance with Section 722.140(a) of the regulations; and sending one copy of the manifest to the Agency within two working days, in violation of Sections 722.140(a) and 722.123(a) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 722.140(a) and 722.123(a) (2012) and Section 21 of the Act, 415 ILCS 5/21 (2012).

45. Prior to July 24, 2014, Respondent disposed of hazardous waste still bottoms in a dumpster for transportation to a facility that was not permitted for hazardous waste, and therefore failed to minimize the possibility of any unplanned sudden or nonsudden release of hazardous waste that could threaten human health or the environment, in violation of Section 725.131 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 725.131 (2012) and Section 21 of the Act, 425 ILCS 5/21 (2012).

46. Prior to July 24, 2014, Respondent stored solvent recovery system-generated still bottoms constituting hazardous waste without a RCRA permit, in violation of Section 21(f) of the Act, 415 ILCS 5/2(f) (2012).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act and regulations as alleged herein;

C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;

D. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000) for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000) for each day during which each violation has continued thereafter;

E. Awarding to Complainant its costs and reasonable attorney's fees; and

F. Granting such other relief as the Board may deem appropriate.

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

BY: Matthew J. Dunn

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

Of Counsel  
ELIZABETH Dubats  
Assistant Attorney General  
Attorney No. 6308913  
500 South Second Street  
Springfield, Illinois 62706  
217-782-9035  
Dated:

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<b>Tank's Auto Body, L.L.C.,</b>	)	
<b>an Illinois limited liability corporation,</b>	)	
<b>Respondent.</b>	)	

**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 Tank's Auto Body, L.L.C. ("Respondent") ("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. Concurrently with this Stipulation, 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, TANK'S AUTO BODY, L.L.C., was and is an Illinois limited liability company that is authorized to transact business in the State of Illinois.

4. At all times relevant to this Complaint, the Respondent was the operator of a facility located at 113 West Sixth Street, Henry County, Illinois (the "facility"). The registered agent is Ronald W. Tank, Jr., 113 West Sixth Street, Kewanee, Illinois.

**B. Allegations of Non-Compliance**

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

Count I: Unlawful Disposal of Hazardous Waste

1. On or around 1989, Respondent lost its Conditional Small Quantity Generator exemption from the requirements of 35 Ill. Adm. Code 722 under 35 Ill. Adm. Code 721.105(g) for failing to conduct a hazardous waste determination required by 35 Ill. Adm. Code 722.111 for the hazardous waste from the Sidewinder solvent recovery system and for disposing of hazardous waste still bottoms in a dumpster rather than disposing at a facility that meets the requirements of 35 Ill. Adm. Code 721.105(g)(3).

2. On or around 1989, Respondent lost its exemption from having a RCRA permit under 35 Ill. Adm. Code Part 722.134(a) for disposing of hazardous waste still bottoms in a dumpster for transportation to a facility that was not permitted for hazardous waste, and therefore

failing to minimize the possibility of any unplanned sudden or nonsudden release of hazardous waste that could threaten human health or the environment, in violation of Section 725.131 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 725.131 (2012).

3. On July 24, 2014, Respondent returned to compliance with the Act and the Board's Waste Disposal Regulations by disposing of its still bottoms in a 55 gallon drum labeled as hazardous waste, contracting with Interstate Chemical to transport the still bottoms to a facility permitted to receive hazardous waste, and regaining its Small Generator exemption from the requirements of 35 Ill. Adm. Code 722 and its RCRA permit exemption.

4. Prior to July 24, 2014, by storing the still bottoms without a RCRA permit for a hazardous waste facility, Respondent violated Sections 703.121(a) and (b) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 703.121(a) and (b) (2012) and Section 21 of the Act, 415 ILCS 5/21 (2012).

5. Prior to July 24, 2014, Respondent generated solid waste, and in doing so failed to determine, using specified methods, if that waste was a hazardous waste, in violation of Section 722.111 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 722.111 (2012) and Section 21 of the Act, 415 ILCS 5/21 (2012).

6. Prior to July 24, 2014, Respondent generated waste while failing to determine whether the waste was a special waste, in violation of Section 808.121 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 808.121 (2012) and Section 21 of the Act, 415 ILCS 5/21 (2012).

7. Prior to July 24, 2014, Respondent offered the still bottoms for transportation by Waste Management for disposal at either the Kewanee Waste Transfer Station or the Knox County Landfill, neither of which has received a U.S. EPA identification number, in violation of

Section 722.112(c) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 722.112(c) (2012) and Section 21 of the Act, 415 ILCS 5/21 (2012).

8. Prior to July 24, 2014, Respondent generated hazardous waste still bottoms and offered that hazardous waste for off-site disposal without having prepared a manifest on the requisite U.S. EPA forms, in violation of Section 722.120 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 722.120 (2012) and Section 21 of the Act, 415 ILCS 5/21 (2012).

9. Prior to July 24, 2014, Respondent generated special waste still bottoms and offered that special waste for off-site disposal without preparing a manifest as set forth in 35 Ill. Adm. Code 809.501 prior to shipment, in violation of Section 808.122 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 808.122 (2012) and Section 21 of the Act, 415 ILCS 5/21 (2012).

10. Prior to July 24, 2014, Respondent generated special waste still bottoms and delivered them for disposal within Illinois without delivering the requisite manifest to a special waste transporter who holds the requisite current special waste hauling permit issued by Illinois EPA, in violation of Section 809.301 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 809.301 (2012) and Section 21 of the Act, 415 ILCS 5/21 (2012).

11. Prior to July 24, 2014, Respondent generated hazardous waste still bottoms and offered that special waste for off-site disposal without signing the manifest certification by hand; obtaining the handwritten signature of the initial transporter and the date of acceptance of the manifest; retaining one copy in accordance with Section 722.140(a) of the regulations; and sending one copy of the manifest to the Agency within two working days, in violation of Sections 722.140(a) and 722.123(a) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 722.140(a) and 722.123(a) (2012) and Section 21 of the Act, 415 ILCS 5/21 (2012).

12. Prior to July 24, 2014, Respondent disposed of hazardous waste still bottoms in a dumpster for transportation to a facility that was not permitted for hazardous waste, and therefore failed to minimize the possibility of any unplanned sudden or nonsudden release of hazardous waste that could threaten human health or the environment, in violation of Section 725.131 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 725.131 (2012) and Section 21 of the Act, 425 ILCS 5/21 (2012).

13. Prior to July 24, 2014, Respondent stored solvent recovery system-generated still bottoms constituting hazardous waste without a RCRA permit, in violation of Section 21(f) of the Act, 415 ILCS 5/21(f) (2012).

**C. Admission of Violations**

The Respondent admits to the violation(s) alleged in the Complaint filed in this matter and referenced within Section I.B herein.

**D. Compliance Activities to Date**

By July 24, 2014 Respondent ceased placing still bottoms in a non-hazardous waste dumpster and has since disposed of the still bottoms in a 55-gallon drum labeled as hazardous waste. By July 24, 2014 Defendant had contracted with an authorized handler of hazardous waste for the proper disposal of the still bottoms. As of July 24, 2014, Respondent has returned to compliance with Board Waste Disposal Regulations and regained its RCRA permit exemption, bringing Respondent into compliance with the Act.

**II. APPLICABILITY**

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

No change in ownership, corporate status or operator of the facility shall in any way alter the responsibilities of the Respondent under this Stipulation. In the event that the Respondent proposes to sell or transfer any real property or operations subject to this Stipulation, the Respondent shall notify the Complainant thirty (30) calendar days prior to the conveyance of title, ownership or other interest, including a leasehold interest in the facility or a portion thereof. The Respondent shall make as a condition of any such sale or transfer, that the purchaser or successor provide to Respondent site access and all cooperation necessary for Respondent to perform to completion any compliance obligation(s) required by this Stipulation. The Respondent shall provide a copy of this Stipulation to any such successor in interest and the Respondent shall continue to be bound by and remain liable for performance of all obligations under this Stipulation. In appropriate circumstances, however, the Respondent and a proposed purchaser or operator of the facility may jointly request, and the Complainant, in its discretion, may consider modification of this Stipulation to obligate the proposed purchaser or operator to carry out future requirements of this Stipulation in place of, or in addition to, the Respondent. This provision does not relieve the Respondent from compliance with any regulatory requirement regarding notice and transfer of applicable facility permits.

### **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 by the improper disposal of hazardous waste.
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. Proper disposal of the still bottoms 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 Section, [415 ILCS 5/42(i)], 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 the Stipulation state as follows:

1. The Respondent generated and improperly disposed of hazardous waste from at least 1989 until July 24, 2014 at a rate of approximately two gallons of still bottoms monthly. The violations are longstanding and serious.

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. By improperly disposing of the still bottoms, Respondent avoided the added costs of proper disposal for 23 years.

4. Complainant has determined, based upon the specific facts of this matter, that a penalty of Six Thousand Dollars (\$6,000.00) 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.

#### **V. TERMS OF SETTLEMENT**

##### **A. Penalty Payment**

1. The Respondent shall pay a civil penalty in the sum of Six Thousand Dollars (\$6,000.00) 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:

Elizabeth Dubats  
Environmental Bureau  
Illinois Attorney General's Office  
500 South Second Street  
Springfield, Illinois 62706

**D. Future Compliance**

1. Respondent shall maintain compliance with Section 21(f) of the Act, 415 ILCS 5/21(f) (2012) and the Board's Waste Disposal Regulations. Specifically, as long as Respondent generates less than 1,000 kilograms of hazardous waste in a calendar month, Respondent may accumulate hazardous waste still bottoms on site for 180 days without a RCRA permit provided that Respondent stays in compliance with the requirements of Section 722.134 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 722.134 (2012).

2. Respondent shall maintain compliance with the requirements of Section 722 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 722. To the extent that Respondent remains eligible for Conditional Small Quantity Generator status, Respondent shall comply with the requirements of 35 Ill. Adm. Code 721.105, including, but not limited to, properly identifying hazardous waste pursuant to the hazardous waste determination requirements of 35 Ill. Adm. Code 722.111 and disposal of the waste at a facility that meets the requirements specified at 35 Ill. Adm. Code 721.105(g)(3).

3. Respondent shall maintain compliance with the special waste determination requirements of 35 Ill. Adm. Code 808.121 and if such a determination is made, maintain compliance with the requirements for properly disposing of such waste, including but not limited to the requirements of 35 Ill. Adm. Code 808.122 and 35 Ill. Adm. Code 809.301 (2012).

4. In the event that Respondent no longer qualifies for a RCRA permit exemption under Section 722.134 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 722.134 (2012) and/or Conditional Small Quantity Generator Exemption under Section 721.105 of the Board's Waste Disposal Regulation, 35 Ill. Adm. Code 721.105 (2012), Respondent shall:

- a. Obtain a RCRA permit for the storage of hazardous waste as required by Sections 703.121(a) and (b) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 703.121(a) and (b) (2012).
- b. Make hazardous waste determinations in compliance with 35 Ill. Adm. Code 722.111.
- c. Comply with the maintenance and operation requirements of 35 Ill. Adm. Code 725.131.

d. Properly dispose of hazardous waste still bottoms in compliance with Section 722 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 722 (2012).

5. 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 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.

6. 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.

7. The Respondent shall cease and desist from future violations of the Act and Board Regulations that were the subject matter of the Complaint.

**F. Release from Liability**

In consideration of the Respondent's payment of the \$6,000.00 penalty, its commitment to cease and desist as contained in Section V.D. above, 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

concurrently filed Complaint. 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.

#### **H. Enforcement and Modification of Stipulation**

1. 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.

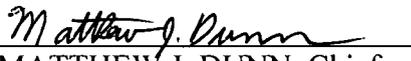
#### **I. Execution of Stipulation**

The undersigned representatives for 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,

LISA MADIGAN  
Attorney General  
State of Illinois

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

DATE: 3/3/15

FOR THE ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

LISA BONNETT, Director  
Illinois Environmental Protection Agency

BY:   
JOHN J. KIM  
Chief Legal Counsel

DATE: 2/18/15

TANK'S AUTO BODY, LLC

BY:   
RONALD W. TANK, JR.  
Registered Agent

DATE: Jan 27 2015

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

<b>PEOPLE OF THE STATE OF ILLINOIS,</b>	)	
	)	
<b>Complainant,</b>	)	
	)	
<b>v.</b>	)	<b>PCB NO.</b>
	)	<b>(Enforcement)</b>
	)	
<b>TANK'S AUTO BODY L.L.C.,</b>	)	
<b>an Illinois limited liability corporation,</b>	)	
	)	
<b>Respondent.</b>	)	

**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) (2014), 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) (2014). In support of this motion, Complainant states as follows:

1. On today's date, March 4, 2015, a Complaint was filed with the Illinois Pollution Control Board ("Board") in this matter.
2. The parties have reached agreement on all outstanding issues in this matter.
3. This agreement is presented to the Board in a Stipulation and Proposal for Settlement, filed contemporaneously with this motion.
4. 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) (2014).

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) (2014).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS  
LISA MADIGAN  
ATTORNEY GENERAL

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

BY: s/Elizabeth Dubats  
ELIZABETH DUBATS  
Environmental Bureau  
Assistant Attorney General

500 South Second Street  
Springfield, Illinois 62706  
217/782-9035

**CERTIFICATE OF SERVICE**

I hereby certify that I did on March 4, 2015, cause to be served by Certified Mail, Return Receipt Requested, with postage thereon fully prepaid, by depositing in a United States Post Office Box in Springfield, Illinois, a true and correct copy of the following instruments entitled NOTICE OF ELECTRONIC FILING, COMPLAINT, STIPULATION AND PROPOSAL FOR SETTLEMENT and MOTION FOR RELIEF FROM HEARING REQUIREMENT upon the following:

Tank's Auto Body L.L.C.  
Ronald W. Tank, Jr., Registered Agent  
113 West Sixth Street  
Kewanee, IL 61443

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

s/Elizabeth Dubats  
ELIZABETH DUBATS  
Assistant Attorney General

This filing is submitted on recycled paper.