

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
by LISA MADIGAN, Attorney)	
General of the State of Illinois,)	
)	
Complainant,)	
)	
-vs-)	PCB No.
)	(Enforcement-Air)
RIVERTON CABINET COMPANY,)	
an Illinois corporation,)	
)	
Respondent.)	

NOTICE OF ELECTRONIC FILING

PLEASE TAKE NOTICE that we have today, June 25, 2015, filed the Complaint, Stipulation and Proposal for Settlement, and Motion for Relief from Hearing Requirement, with the Office of the Clerk of the Illinois Pollution Control Board, by electronic filing. True and accurate copies of the documents so filed are attached herewith and served upon you.

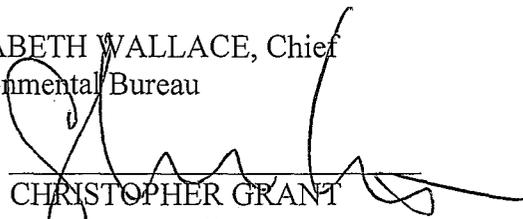
PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN
Attorney General of the
State of Illinois

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

ELIZABETH WALLACE, Chief
Environmental Bureau

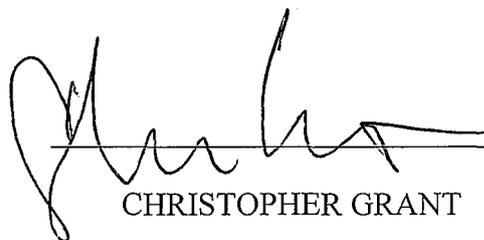
BY:



CHRISTOPHER GRANT
Environmental Bureau
Assistant Attorney General
69 W. Washington Street, #1800
Chicago, Illinois 60602
(312) 814-5388

CERTIFICATE OF SERVICE

I, CHRISTOPHER GRANT, an attorney, do certify that I caused to be served this 25th day of June, 2015, the Complaint, Stipulation and Proposal for Settlement, Motion to Request Relief from the Hearing Requirement, and Notice of Electronic Filing, upon the person listed below by placing same in an envelope bearing sufficient postage with the United States Postal Service located at 100 W. Randolph, Chicago, Illinois.



CHRISTOPHER GRANT

SERVICE LIST:

RIVERTON CABINET COMPANY

Mr. Keith Hinshaw, President
Riverton Cabine Company
22000 S. Schoolhouse Road
New Lenox, IL 60451
by Certified Mail

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COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, RIVERTON CABINET COMPANY, as follows:

COUNT I
OPERATING WITHOUT A CLEAN AIR ACT PERMIT PROGRAM PERMIT

1. This Complaint is brought 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 at the request of the Illinois Environmental Protection Agency (“Illinois EPA”) pursuant to the terms and provisions of Section 31 of the Environmental Protection Act (“Act”), 415 ILCS 5/31 (2014).

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 (2014), and charged, *inter alia*, with the duty of enforcing the Act and regulations promulgated by the Illinois Pollution Control Board (“Board”).

3 At all times relevant to the Complaint, Respondent RIVERTON CABINET COMPANY (“Riverton”) was, and is, an Illinois corporation, duly authorized to transact

business in Illinois. Riverton owns and operates a residential/commercial cabinet manufacturing facility located a 22000 Schoolhouse Road, New Lenox, Will County, Illinois ("Site").

4. On dates better known to the Respondent, but prior to July 2, 2013, the Site was owned and operated by a predecessor of Riverton named Riverton Custom Cabinetry, Inc. ("RCC").

5. Riverton's manufacturing operations at the Site include assembly, coating and painting of manufactured cabinets using adhesives and coatings. The coating and painting operations are performed using two spray booths. Coating equipment is cleaned using organic solvents.

6. The adhesives and coatings applied by Riverton, and the solvents used by Riverton in cleanup operations, contain volatile organic compounds which, upon release to the atmosphere, participate in photochemical reactions ("Volatile Organic Materials" or "VOM").

7. The adhesives and coatings applied by Riverton, and the solvents used by Riverton in cleanup operations, also contain chemical compounds that have been listed as hazardous air pollutants ("HAPs") in Section 112(b)(1) of the Clean Air Act, 42 U.S.C. §7412(b)(1). The HAPs used at the Site include formaldehyde, methanol, ethylbenzene, methyl isobutyl ketone, toluene and xylene. Riverton's operations have the potential to emit more than 25 tons per year of combined HAPs to the atmosphere.

8. On March 20, 2000, RCC submitted an application to Illinois EPA for a Federally Enforceable State Operating Permit. In its application, RCC agreed to federally-enforceable operating conditions which would limit the potential to emit HAPs to below 25 tons per year. In addition, RCC agreed to federally-enforceable operating conditions which would limit the potential to emit VOM to below 25 tons per year.

9. On October 22, 2002, Illinois EPA issued Federally Enforceable State Operating Permit No.0003000064 ("FESOP") to RCC. The FESOP incorporated the federally-enforceable operating conditions, and allowed operation of the two spray booths and associated solvent cleanup activities at the Site, subject to enumerated permit conditions.

10. On November 18, 2008, Illinois EPA issued a renewed FESOP to RCC. The renewed FESOP contained an express expiration date of November 18, 2013.

11. On a date better known to the Respondent, but prior to July 2, 2013, Riverton took over operation of the Site from RCC. On July 2, 2013, Illinois EPA revised the FESOP to change the identity of the Permittee from RCC to Riverton. The revised FESOP also contained an express expiration date of November 18, 2013.

12. Riverton did not seek a renewal of the FESOP prior to November 18, 2013, and the FESOP expired on that date. However, the Respondent continued operation of the spray booths and solvent cleaning operations after November 18, 2013, without first submitting a FESOP renewal application to Illinois EPA, and without applying for and obtaining a Clean Air Act Permit Program Permit ("CAAPP Permit") for the Site.

13. To the date of filing this Complaint, the Respondent has not submitted a CAAPP Permit application. On June 2, 2014, the Respondent submitted an application for renewal of the FESOP for the Site. From at least November 18, 2013 to at least May 14, 2015, the Respondent operated the spray booths and solvent cleanup operations at the Site without a permit.

14. Section 39.5(6) of the Act, 415 ILCS 5/39.5(6)(a) (2014), provides, in pertinent part, as follows:

- a. It shall be unlawful for any person to violate any terms or conditions of a permit issued under this Section, to operate any CAAPP source except in compliance with a permit issued by the

Agency under this Section or to violate any other applicable requirements....

- b. After the applicable CAAPP permit or renewal application submittal date, as specified in Subsection 5 of this Section, no person shall operate a CAAPP source without a CAAPP permit unless the complete CAAPP permit or renewal application for such source has been timely submitted to the Agency.

15. Section 3.315 of the Act, 415 ILCS 5/3.315 (2014), provides the following definition:

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

16. Respondent Riverton, a corporation, is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2014).

17. Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (2014), provides the following definition:

“CAAPP source” means any source for which the owner or operator is required to obtain a CAAPP permit pursuant to subsection 2 of this Section.

18. Section 39.5(2) of the Act, 415 ILCS 5/39.5(2) (2010), provides as follows:

(2) Applicability.

(a) Sources subject to this Section shall include:

(i) Any major source as defined in paragraph (c) of this subsection

* * *

(c) For purposes of this Section the term “major source” means any source that is:

(i) A major source under Section 112 of the Clean Air Act, which is defined as:

- A. For pollutants other than radionuclides, any stationary source located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutant which has been listed pursuant to Section 112(b) of the Clean Air Act, 25 tpy or more of any combination of such hazardous air pollutants. . . .

19. The spray booths and solvent cleanup operations at the Site have the potential to emit more than 25 tons per year of hazardous air pollutants listed pursuant to Section 112(b) of the Clean Air Act. The Site is a “major source”, as that term is defined in Section 39.5(2) of the Act, 415 ILCS 5/39.5(2) (2014), and a “CAAPP Source” as that terms is defined and used in Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (2014). Riverton is the operator of a CAAPP Source.

20. Section 39.5(3)(c) of the Act, 415 ILCS 5/39.5(3)(c) (2014), provides as follows:

- (3) Agency Authority to Issue CAAPP Permits and Federally Enforceable State Operating Permits.

* * *

- (c) The Agency shall have the authority to issue a State operating permit for a source under subsection (a) of Section 39 of this Act, as amended, and regulations promulgated thereunder, which includes federally enforceable conditions limiting the “potential to emit” of the source to a level below the major source threshold for that source as described in paragraph (c) of subsection 2 of this Section, thereby excluding the source from the CAAPP, when requested by the applicant pursuant to paragraph (u) of subsection 5 of this Section. . . .

21. Section 39.5(5)(u) of the Act, 415 ILCS 5/39.5(5)(u) (2014), provides, in pertinent part, as follows:

An owner or operator of a CAAPP source which seeks exclusion from the CAAPP through the imposition of federally enforceable conditions, pursuant to paragraph (c) of subsection 3 of this Section, must request such exclusion within a CAAPP application submitted consistent with this subsection on or after the date that the CAAPP application for the source is due. . . .

22. Section 201.162 of the Illinois Pollution Control Board ("Board") Regulations, 35

Ill. Adm. Code 201.162, provides, in pertinent part, as follows:

Applications for renewal of an operating permit shall be submitted to the Agency at least 90 days prior to the expiration of the prior permit. . . .

23. Riverton's FESOP had an expiration date of November 18, 2013. Pursuant to 35 Ill. Adm. Code 201.162, an application for renewal of the FESOP was required to be submitted 90 days prior to the expiration date, or no later than August 20, 2013.

24. Riverton did not submit a renewal application, and the FESOP for the Site expired on November 18, 2013. Accordingly, as of that date, Riverton was no longer excluded from the requirement to obtain a CAAPP Permit.

25. From at least November 18, 2013 to at least May 14, 2015, the Respondent operated a CAAPP source without having first applied for and obtained a CAAPP Permit. By operating a CAAPP source without a CAAPP Permit, the Respondent violated Section 39.5(6) of the Act, 415 ILCS 5/39/5(6) (2014).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, RIVERTON CABINET COMPANY, on Count I:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent violated Section 39.5(6) of the Act;
3. Ordering the Respondent to cease and desist from any further violations of Section 39.5(6) of the Act;
4. Assessing against the Respondent a civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation of Section 39.5(6) of the Act;
5. Ordering the Respondent to pay all costs, pursuant to Section 42(f) of the Act, 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
RECORDKEEPING VIOLATIONS

1-13. Complainant realleges and incorporates herein by reference paragraphs 1 through 11, and paragraphs 15 through 16, of Count I as paragraphs 1 through 13 of Count II.

14. On March 6, 2014, Illinois EPA inspectors visited the Site to perform an unannounced inspection. During the inspection the spray booths were in operation.

15. On March 6, 2014, the inspectors requested copies of records showing the name and identification number of each coating applied in the spray booths, the weight of VOM per volume for each coating, and the volume of each coating applied in the spray booths on a monthly basis. However, the Respondent had not made or kept these records, and they were not available at the Site.

16. On March 6, 2014, the inspectors requested copies of records showing daily, monthly and annual VOM and HAP emissions from the Site, the VOM and HAP content of each

coating, adhesive, and solvent used, and the amount of each coating, adhesive, and solvent used at the Site. However, the Respondent had not made or kept these records, and they were not available at the Site.

17. Section 9 of the Act, 415 ILCS 5/9 (2014) provides, in pertinent part, as follows:

Acts Prohibited. No person shall:

* * *

(b) Construct, install, or operate any equipment, facility, vehicle, vessel, or aircraft capable of causing or contributing to air pollution...without a permit granted by the Agency, or in violation of any conditions imposed by such permit;....

18. The spray booths and solvent cleanup operations at the Site emit VOM and HAPs, and are capable of causing or contributing to air pollution.

19. Section 1a of Respondent's FESOP provides, in pertinent part, as follows:

1a. This federally enforceable state operating permit is issued:

* * *

iv. To establish federally enforceable production and operating limitations, which restrict the potential to emit for VOM to less than 25 tons per year so that the source is not subject to the requirements of 35 Ill. Adm. Code 218.204(a) (Wood Furniture Coating)

20. Section 218.211 of the Board regulations, 35 Ill. Adm. Code 218.211, provides, in pertinent part, as follows:

Section 218.211 Recordkeeping and Reporting

* * *

b) Any owner or operator of a coating line that is exempted from the limitations of Section 218.204 of this Subpart because of Section 218.208(a) or (b) of this Subpart shall comply with the following:

* * *

- 4) For sources exempt under Section 218.208(b) of this Subpart, on and after March 15, 1998, the owner or operator of a coating line or group of coating lines referenced in this subsection (b) shall collect and record all of the following information for each coating line and maintain the information at the source for a period of three years:
 - A) The name and identification number of each coating as applied on each coating line; and
 - B) The weight of VOM per volume and the volume of each coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied on each coating line on a monthly basis.....

21. The Respondent is exempt from the requirements of 35 Ill. Adm. Code 218.204 pursuant to 35 Ill. Adm. Code 218.208(b). Accordingly, the recordkeeping and reporting provisions of 35 Ill. Adm. Code 218.211 apply to the Respondent.

22. Condition 12 of Respondent's FESOP provides, in pertinent part, as follows:

* * *

12b. Pursuant to 35 Ill. Adm. Code 218.211(b)(4), an owner or operator of a coating line which is exempted from the limitations of 35 Ill. Adm. Code 218.204 because of 35 Ill. Adm. Code 218.208(b) shall collect and record all of the following information for each coating line and maintain the information at the source for a period of three years:

- i. The name and identification number of each coating as applied on each coating line; and
- ii. The weight of VOM per volume and the volume of each coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied on each coating line on a monthly basis.

23. Condition 13 of Respondent's FESOP provides, in pertinent part, as follows:

13a. The Permittee shall maintain records of the following items so as to demonstrate compliance with the conditions of this permit:

- i. Amount of each coating, adhesive, thinners, clean up solvents, and any other VOM containing material used in the coating operation (lbs/day, tons/month, and tons/year);
- ii. The VOM and HAP content of each coating, adhesive, thinners, clean up solvents, and any other VOM containing material used in the coating operation (wt.%); and
- iii. Daily, monthly, and annual VOM and HAP emissions from the source with supporting calculations (lbs./day, tons/month, and tons/year).

13b. All records and logs required by this permit shall be retained at a readily accessible location at the source for at least five (5) years from the date of entry and shall be made available for inspection and copying by the Illinois EPA upon request.....

24. Pursuant to 35 Ill. Adm. Code 218.211 and Condition 12b of Respondent's FESOP, the Respondent was required to maintain records of the name, identification number, and weight of VOM per volume of coatings applied at the Site for at least three years prior to Illinois EPA's March 16, 2014 inspection. By failing to make and maintain these records at the Site, the Respondent violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2014), Section 218.211 of the Board regulations, 35 Ill. Adm. Code 218.211, and Condition 12b of its FESOP.

25. Pursuant to Condition 13 of Respondent's FESOP, the Respondent was required to make and keep records of the VOM and HAP content of all adhesives, coatings, and cleanup solvents used at the Site; and records of daily, monthly, and annual VOM and HAP emissions from the Site. The Respondent was required to maintain these records for at least 5 years prior to Illinois EPA's March 6, 2013 inspection, and required to produce the records to Illinois EPA upon request. By failing to make and keep these records, and by failing to produce these records

to Illinois EPA on March 6, 2013, the Respondent violated Section 9(b) of the Act, 415 ILCS 5/9(b), and Condition 13 of Respondent's FESOP.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, RIVERTON CABINET COMPANY, on Count II:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent violated Section 9(b) of the Act and 35 Ill. Adm. Code 218.211;
3. Ordering the Respondent to cease and desist from any further violations of Section 9(b) of the Act, and 35 Ill. Adm. Code 218.211;
4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Section 9(b) of the Act, and 35 Ill. Adm. Code 218.211, and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day that each violation continued;
5. Ordering the Respondent to pay all costs, pursuant to Section 42(f) of the Act, 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
FAILURE TO REPORT DEVIATION FROM FESOP

1-25. Complainant realleges and incorporates herein by reference paragraphs 1 through 25 of Count II, as paragraphs 1 through 25 of this Count III.

26. At no time prior to March 6, 2014, did the Respondent notify Illinois EPA of its deviation from the requirements of Conditions 12 and 13 of its FESOP .

27. Condition 14 of Respondent's FESOP provides, as follows:

If there is an exceedance of or deviation from the requirements of this permit as determined by the records required by this permit, the Permittee shall submit a report to the Illinois EPA's Compliance Section in Springfield, Illinois within 30 days after the exceedance or deviation. The report shall include the emissions released in accordance with the recordkeeping requirements, a copy of the records, and a description of the exceedance or deviation and efforts of reduce emissions and future occurrences.

28. The Respondent failed to make and keep the records required by Conditions 12 and 13 of its FESOP permit, but failed to notify Illinois EPA of the deviation from these permit conditions. The Respondent thereby violated Condition 14 of its FESOP, and thereby also violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2014).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, RIVERTON CABINET COMPANY, on Count III:

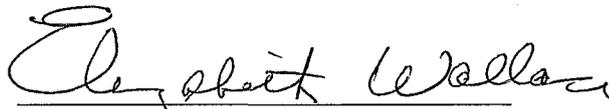
1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent violated Section 9(b) of the Act;
3. Ordering the Respondent to cease and desist from any further violations of Section 9(b) of the Act;

4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Section 9(b) of the Act, and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day that each violation continued;
5. Ordering the Respondent to pay all costs, pursuant to Section 42(f) of the Act, 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,
by LISA MADIGAN, Attorney General of the State
of Illinois

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

By:



ELIZABETH WALLACE, Chief
Environmental Enforcement
Assistant Attorney General

Of Counsel:

Christopher Grant
Assistant Attorney General
Environmental Bureau
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MOTION TO REQUEST RELIEF FROM HEARING REQUIREMENT

Now comes Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and requests relief from the requirement of a hearing in this matter. In support thereof, the Complainant states as follows:

1. Along with this Motion, Complainant is filing the initial Complaint in this matter, and a Stipulation and Proposal for Settlement executed between Complainant and Respondent Riverton Cabinet Company.

2. Section 31 of the Act, 415 ILCS 5/31 (2014), provides, in pertinent part, as follows:

* * *

(c)(2) Notwithstanding the provisions of subdivision (1) of this subsection (c), whenever a complaint has been filed on behalf of the Agency or by the People of the State of Illinois, the parties may file with the Board a stipulation and proposal for settlement accompanied by a request for relief from the requirement of a hearing pursuant to subdivision (1). Unless the Board, in its discretion, concludes that a hearing will be held, the Board shall cause notice of the stipulation, proposal and request for relief to be published and sent in the same manner as is required for hearing pursuant

to subdivision (1) of this subsection. The notice shall include a statement that any person may file a written demand for hearing within 21 days after receiving the notice. If any person files a timely written demand for hearing, the Board shall deny the request for relief from a hearing and shall hold a hearing in accordance with the provisions of subdivision (1).

* * *

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) (2014).

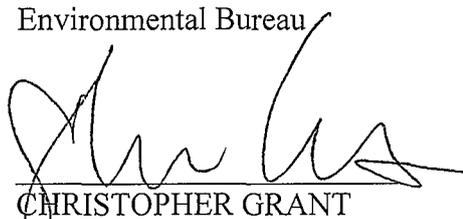
Respectfully submitted,

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

ELIZABETH WALLACE, Chief
Environmental Bureau

BY:



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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 Respondent RIVERTON CABINET COMPANY ("Respondent" or "Riverton") ("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.* (2014), 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 25, 2015, 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 (2014), 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 (2014).

3. At all times relevant to the Complaint, the Respondent was, and is, an Illinois corporation, organized and operating under the laws of the State of Illinois.

4. The Respondent owns and operates a custom cabinet manufacturing facility, located at 22000 Schoolhouse Road, New Lenox, Will County, Illinois ("Facility").

5. At all times relevant to the Complaint, the Facility operated under Federally Enforceable State Operating Permit No. 00030064 ("FESOP"). The FESOP expired on November 18, 2013.

B. Allegations of Non-Compliance

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

Count I: OPERATING WITHOUT A CLEAN AIR ACT PERMIT PROGRAM PERMIT, violation of 415 ILCS 5/39.5(6) (2014);

Count II: RECORDKEEPING VIOLATIONS, violation of 415 ILCS 5/9(B) (2014), and 35 Ill. Adm. Code 218.211;

Count III: FAILURE TO REPORT DEVIATION FROM FESOP, violation of 415 ILCS 5/9(b) (2014).

C. Non-Admission of Violations

The Respondent neither admits nor denies the violations alleged in the Complaint filed in this matter and referenced herein.

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 5/42 (2014).

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

Section 33(c) of the Act, 415 ILCS 5/33(c) (2014), 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 Respondent's failure to comply with permitting requirements interfered with Illinois EPA's Title V oversight responsibilities under Illinois' State Implementation Plan.
2. Operation of the Respondent's coating and adhesive operations are part of the Respondent's cabinet manufacturing operations, which has a social and economic benefit.
3. The location of the Respondent's facility is suitable provided the Respondent operates in conformance with the Act and Board regulations.
4. Maintaining up-to-date permits, reporting deviations from permit conditions, and maintaining required records is technically feasible and economically reasonable.
5. The Respondent is now keeping records and has applied for a renewed FESOP Permit for its facility.

IV. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h) (2014), 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 there from 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; 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;
 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. Count I: Complainant alleges that the violation alleged in Count I continued from at least November 19, 2013 to the present. However, the Respondent has submitted a FESOP application and has agreed to operate under the provisions of the expired FESOP until the new FESOP is issued.

Counts II and III: Complainant alleges that the violations alleged in Count II and Count III occurred on at least March 6, 2014.

2. The Respondent was not diligent when it failed to renew its FESOP Permit and when it failed to comply with the recordkeeping provisions in the regulations and the expired FESOP Permit.

3. Complainant is unaware of a substantial economic benefit to the Respondent

related to the alleged violations, and asserts that assessment of a civil penalty of \$15,000.00 will recover any potential economic benefit realized by the Respondent.

4. Complainant has determined, based upon the specific facts of this matter that a penalty of \$15,000.00 will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

5. Complainant is not aware of any previously adjudicated violations by the Respondent.

6. The Respondent did not self-disclose the alleged violations.

7. The settlement of this matter does not include a supplemental environmental project.

8. The Parties did not enter into a Compliance Commitment Agreement.

V. TERMS OF SETTLEMENT

A. Penalty Payment

1. The Respondent shall pay a civil penalty in the sum of Fifteen Thousand Dollars (\$15,000.00) 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, 415 ILCS 5/42(g) (2014), 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 case name and case 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:

Christopher J. Grant
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington, Suite 1800
Chicago, Illinois 60602

D. Future Compliance

1. Until Illinois EPA issues a new FESOP Permit for the Respondent's facility, the Respondent shall comply with the terms and provisions of FESOP Permit No. 00030064.

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 \$15,000.00 penalty, its commitment to cease and desist as contained in Section V.D.3 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 25, 2015. 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 (2014), 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 of the
State of Illinois

LISA BONNETT, Director
Illinois Environmental Protection Agency

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

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

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

DATE: 6/23/15

DATE: 6/18/15

RIVERTON CABINET COMPANY

BY:


Keith Hinshaw

TITLE: President, Riverton Cabinet Company

DATE: 5-19-15

People of the State of Illinois v. The Riverton Cabinet Company PCB No.