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APR 14 1997

STATE OF ILLINOIS
POLLUTION CONTROL BOARD

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.)
)
PAMARCO, INC., a Maryland)
Corporation,)
)
Respondent.)

PCB 96 - 245
(Enforcement)

NOTICE OF FILING

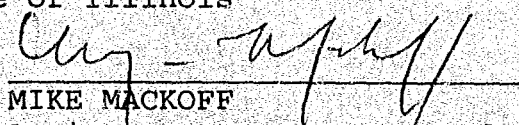
TO: See attached service list

PLEASE TAKE NOTICE that on the 14th day of April, 1997, I filed with the Clerk of the Illinois Pollution Control Board a Stipulation and Proposal for Settlement and a Motion to Request Relief From Hearing Requirement, copies of which are attached hereto and hereby served upon you.

PEOPLE OF THE STATE OF ILLINOIS

JAMES E. RYAN
Attorney General of the
State of Illinois

BY:



MIKE MACKOFF
Assistant Attorney General
Environmental Bureau
100 W. Randolph St. -11th Fl.
Chicago, Illinois 60601
(312) 814-2381

DATE: April 14, 1997

THIS FILING IS SUBMITTED ON RECYCLED PAPER

SERVICE LIST

Ms. June Edvenson
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph Street
Suite 11-500
Chicago, IL 60601

Mr. Gabriel Rodriguez
Schiff, Hardin and Waite
7200 Sears Tower
Chicago, Illinois 60606

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**MOTION TO REQUEST RELIEF
FROM HEARING REQUIREMENT**

NOW COMES the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by JAMES E. RYAN, Attorney General of the State of Illinois, and requests relief from the hearing requirement in the above captioned matter. In support thereof, the Complainant states as follows:

1. On May 29, 1996, a Complaint was filed before the Board. On April 14, 1997, a Stipulation and Proposal for Settlement was also filed.
2. On August 13, 1991, the Governor signed into law legislation amending Section 31 of the Environmental Protection Act, 415 ILCS 5/31 ("Act"). The amendment allows parties in certain enforcement cases to request relief from the mandatory hearing requirement, where the parties have submitted to the Board a stipulation and proposal for settlement. The new law, Public Act 87-0134, was effective immediately and provides in pertinent part as follows:

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 for 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).

415 ILCS 5/31(c)(2)(1997).

3. No hearing is currently scheduled in the instant case.

4. The Complainant requests the relief conferred by Public

Act 87-0134.

WHEREFORE, the Complainant, PEOPLE OF THE STATE OF ILLINOIS,
by JAMES E. RYAN, Attorney General of the State of Illinois,
requests relief from requirement of a hearing pursuant to 415
ILCS 5/31(c)(2)(1997), effective August 13, 1991.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

JAMES E. RYAN,
Attorney General of the
State of Illinois

BY:


MIKE MACKOFF

Assistant Attorney General
Environmental Bureau
100 W. Randolph St. - 11th Fl.
Chicago, Illinois 60601
(312) 814-2381

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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PEOPLE OF THE STATE OF ILLINOIS,)	
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PAMARCO, INC., a Maryland)	
Corporation,)	
)	
Respondent.)	

STIPULATION AND PROPOSAL FOR SETTLEMENT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by JAMES E. RYAN, Attorney General of the State of Illinois, at the request of the Illinois Environmental Protection Agency (collectively, the "State"), and Respondent, PAMARCO, INC., a Maryland corporation, ("Pamarco") do hereby agree to this Stipulation and Proposal for Settlement ("Agreement"). The parties further stipulate that this statement of alleged facts is made and agreed upon for purposes of settlement only and that neither the fact that a party has entered into this Agreement, nor any of the alleged facts stipulated herein, shall be introduced into evidence in this or any other proceeding except to enforce the terms of this Agreement. Notwithstanding the previous sentence, this Agreement and any Illinois Pollution Control Board ("Board") order accepting same may be used as evidence of a prior adjudicated violation for purposes of Section 42(h) of the Illinois Environmental Protection Act ("Act"), 415 ILCS

5/42(h) (1994), in determining appropriate civil penalties for any future violations of the Act. This Agreement shall be null and void unless the Board approves and disposes of this matter on each and every one of the terms and conditions of the settlement set forth herein.

I.

JURISDICTION

The Board has jurisdiction of the subject matter herein and of the parties consenting hereto pursuant to the Act, 415 ILCS 5/1 et seq. (1994).

II.

AUTHORIZATION

The undersigned representative for each party certifies that he or she is fully authorized by the party whom he or she represents to enter into the terms of this Agreement and to legally bind them to it.

III.

APPLICABILITY

This Agreement shall apply to and be binding upon the Complainant and Respondent, and any officer, agent and employee or servant of Respondent, as well as Respondent's successors and assigns. Respondent shall not raise as a defense to any

enforcement action taken pursuant to this Agreement the failure of its officers, agents, servants or employees to take such action as shall be required to comply with the provisions of this Agreement.

IV.

STATEMENT OF FACTS ALLEGED BY THE STATE

A. Parties

1. The Attorney General of the State of Illinois brings this action on his own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), and pursuant to the statutory authority vested in him under Section 31 of the Act, 415 ILCS 5/31 (1994).

2. The Illinois EPA is an administrative agency in the executive branch of the State government of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (1994), and is charged, *inter alia*, with the duty of enforcing the Act.

3. At all times relevant to this Agreement, Respondent, was a Maryland corporation, located at First and Waters Streets, Batavia, Kane County, Illinois ("facility").

4. At its facility, Respondent manufactures metal cylinders used in the printing, coating, and laminating industries.

B. Facility Description

1. At its facility, Respondent generates wastes including, but not limited to, metalizing spray waste, waste sulfuric acid, sodium hydroxide, copper plating solution, chrome plating solution, chromic acid sludge, copper sulfate sludge, sulfuric acid, chromic acid, grinding and polishing solution, and plating rinse.

2. On September 23, 1993, and February 10, 1994, the Illinois EPA conducted inspections of Pamarco's facility.

3. During its September 23, 1993 inspection, the Illinois EPA found that Respondent was storing 1000 gallons of metalizing spray waste, nine (9) 55-gallon drums of spent copper plating solution, and one (1) 55-gallon drum of chromic acid at the facility for longer than 90 days.

C. Alleged Violations

1. In its Complaint, Complainant alleges the following violations of the Act and applicable Board regulations:

Count I: Operating a hazardous waste storage area without a permit in violation of Section 21(f)(1) of the Act, 415 ILCS 5/21(f)(1) (1994), and 35 Ill. Adm. Code 703.121.

Count II: Failure to train personnel in violation of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (1994), and 35 Ill. Adm. Code 725.116.

Count III: Failure to maintain an adequate contingency plan in violation of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (1994), and 35 Ill. Adm. Code 725.151 and 725.152.

Count IV: Failure to maintain adequate records in violation of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (1994), and 35 Ill. Adm. Code 722.140.

Count V: Improper land disposal restriction analysis and recordkeeping in violation of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (1994), and 35 Ill. Adm. Code 728.107.

v.

IMPACT ON THE PUBLIC RESULTING FROM NON-COMPLIANCE

Section 33(c) of the Act, 415 ILCS 5/33(c)(1994), 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 state the following:

1. Although human health and the environment were potentially threatened by Respondent's alleged improper storage of hazardous waste, there seems to be no evidence of significant impact to the environment and/or the public arising from Respondent's alleged noncompliance.

2. The facility is of social and economic benefit.

3. The facility is suitable for the area in which it is located.

4. Proper storage of Respondent's hazardous waste is technically practicable and economically reasonable.

5. Subsequent to meeting with the Illinois EPA, and before the filing of this Complaint, Respondent achieved compliance with the Act and the Board Regulations.

VI.

CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h) (1994), 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 violator 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 violator because of delay in compliance with requirements;
4. the amount of monetary penalty which will serve to deter further violations by the violator and to otherwise aid in enhancing voluntary compliance with this Act by the violator and other persons similarly subject to the Act; and
5. the number, proximity in time, and gravity of previously adjudicated violations of this Act by the violator.

In response to these factors, the parties state as follows:

1. The duration of the alleged violations was from at least September 23, 1993 through February 10, 1994.
2. Respondent acted with diligence to correct the alleged violations.
3. Respondent received no significant amount of economic benefit from noncompliance.
4. Complainant has determined that a penalty of Twelve Thousand, Five Hundred Dollars (\$12,500.00) will serve to deter any future violations and aid in future voluntary compliance with the Act and Board regulations.
5. Respondent has no previously adjudicated violations of the Act.

VII.

TERMS OF SETTLEMENT

1. The Respondent shall pay a penalty in the sum of Twelve Thousand, Five Hundred Dollars (\$12,500.00) within thirty (30) days of the date of entry of this Agreement. The penalty described in this Agreement shall be paid by certified check to the Treasurer of the State of Illinois, designated to the Illinois Environmental Protection Trust Fund and submitted to:

Illinois Environmental Protection Agency
Fiscal Services Section
2200 Churchill Road
P.O. Box 19276
Springfield, IL 62794-9276

The name and number of the case and Respondent's Federal Employer Identification Number (FEIN), 22-1430432, shall appear on the check.

2. Respondent shall cease and desist from violations of the Act, and any and all of the regulations found in 35 Ill. Adm. Code, Subtitles A through H.

3. Respondent shall store any hazardous waste generated at its facility in accordance with the Act and the Pollution Control Board's Waste Storage Regulations, 35 Ill. Adm. Code Subtitle G.

4. Respondent shall maintain proper records at its facility with regard to the generation, storage and disposal of waste, including but not limited to a proper contingency plan,

and any land disposal restriction analyses.

VIII.

COMPLIANCE WITH OTHER LAWS AND REGULATIONS

This Agreement in no way affects the responsibility of the Respondent to comply with any federal, state or local regulations, including but not limited to the Act, 415 ILCS 5/1 *et seq.* (1994), and the Board regulations, 35 Ill. Adm. Code Subtitles A through H.

IX.

RIGHT OF ENTRY

In addition to any other authority, the Illinois EPA, its employees and representatives, and the Illinois Attorney General, his agents and representatives, shall have right of entry to the facility at all reasonable times, for the purposes of conducting inspections. In conducting any inspection of the Site, the Illinois EPA, its employees and representatives, and the Attorney General, his agents and representatives, may take any photographs or samples as they deem necessary in order to conduct their inspection.

X.

RELEASE FROM LIABILITY

In consideration of Respondent's payment of the penalty specified herein, and commitment to refrain from future violation of

the Act, Complainant releases, waives and discharges Respondent and its officers, agents, servants, employees, successors and assigns from any further liability or penalties for violations of the Act which are the subject matter of the Complaint. Nothing in this Agreement shall be construed as a waiver by the Attorney General or the Illinois EPA of the right to address any other violations, if any, or to obtain penalties with respect thereto.

CERTIFICATE OF SERVICE

I, MIKE MACKOFF, an Assistant Attorney General in this case, do certify that I caused to be mailed this 14th day of April, 1997 the foregoing Notice of Filing, Motion to Request Relief from Hearing Requirement and Stipulation and Proposal for Settlement, upon the person(s) listed on said Notice by first class mail in an envelope bearing sufficient postage with the United States Postal Service located at 100 W. Randolph Street, Chicago, Illinois.



MIKE MACKOFF

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

PEOPLE OF THE STATE OF ILLINOIS,

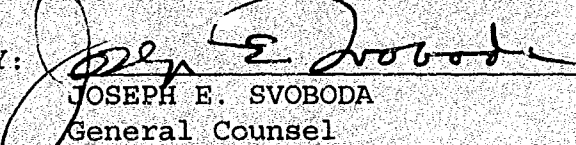
JAMES E. RYAN,
Attorney General
State of Illinois

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

BY: 
WILLIAM D. SEITH, Chief
Environmental Bureau
Assistant Attorney General

DATE: 4/8/97

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

BY: 
JOSEPH E. SVOBODA
General Counsel

DATE: 4/7/97

PAMARCO INC.

BY: 
PAMARCO INC.

DATE: 4/9/97

V.P. OF OPERATIONS



ILLINOIS POLLUTION CONTROL BOARD

JRTC ♦ 100 W. Randolph ♦ Suite 11-500 ♦ Chicago, IL 60601 ♦ 312-814-3620 ♦ Fax 312-814-3669

ORIGINAL

GOVERNOR

Honorable Jim Edgar



CHAIRMAN

Claire A. Manning
Springfield

MEMBERS

Ronald C. Flemal
DeKalb

G. Tanner Girard
Grafton

Kathleen M. Heamessey
Chicago

Marill McFawn
Inverness

J. Theodore Meyer
Chicago

Joseph C. Yi
Park Ridge



SPRINGFIELD OFFICE

600 South Second Street
Suite 402
Springfield, IL 62704
217-524-8500
Fax 217-524-8508

SATELLITE OFFICES

110 South State
Jerseyville, IL 62052
618-498-9802
Fax 618-498-5934

148 North Third St.
P.O. Box 505
DeKalb, IL 60115
815-753-1904
Fax 815-753-1970



WEB SITE

<http://www.state.il.us/pcb/>

TDD 312-814-6032



PRINTED ON RECYCLED PAPER

April 15, 1997

Batavia Republican
Legal Notice Department
1519 East Main Street
Box 927
St. Charles, Illinois 60174

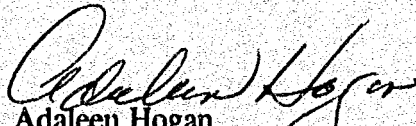
Attn: Merle

Re: PCB 96-245, People of the State of Illinois v. Pamarco, Inc.
Location: First and Waters Streets, Batavia, Illinois

Please publish the notice as it appears one day no later than April 17, 1997.
Please publish legal style. Do not enlarge.

Please provide detail billing costs on the your payment invoice statement including the "FEIN" (Federal Employer Identification Number). Return your billing statement to the Board along with the Certificate of Publication and attached copy of legal notice.

Very truly yours,


Adaleen Hogan
Assistant Clerk of the Board

ILLINOIS POLLUTION CONTROL BOARD

**NOTICE OF PROPOSED STIPULATION AND PROPOSAL
FOR SETTLEMENT OF ENFORCEMENT CASE**

The Attorney General has brought a case against Pamarco, Inc. for violation of state RCRA pollution rules. On April 14, 1997, they filed a proposed settlement agreement. The parties agree that a hearing is not necessary, and in accordance with state law, have requested that the settlement be adopted without holding a public hearing.

Any person desiring that a hearing be held may demand a public hearing in this case by filing a written hearing request with the Illinois Pollution Control Board within 21 days after the publication of this notice. The hearing request should refer to PCB 96-245, People of the State of Illinois v. Pamarco, Inc., and should be mailed to the Clerk of the Illinois Pollution Control Board, 100 West Randolph Street, Suite 11-500, Chicago, Illinois 60601. Additional information can be obtained through the Office of the Clerk at 312/814-3629.

**Claire A. Manning
Chairman**

ATTACH COPY HERE

CERTIFICATE OF PUBLICATION

STATE OF ILLINOIS
COUNTY OF KANE

LEGAL NOTICE
ILLINOIS POLLUTION
CONTROL BOARD
NOTICE OF PROPOSED
STIPULATION AND PROPOSAL
FOR SETTLEMENT OF
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Clara A. Manning
Chairman
(Published in The Republican,
April 17, 1997.) 269

PCB 96-245

I, Wayne G. Woltman, do hereby certify that I am the publisher of THE BATAVIA REPUBLICAN, a secular newspaper of general circulation, printed and published weekly in Batavia in said county, and do further certify that the notice, a true copy of which is hereto annexed, relating to the mater of

.....ILLINOIS POLLUTION CONTROL
.....BOARD NOTICE OF PROPOSED
.....STIPULATION & PROPOSAL FOR
.....SETTLEMENT OF ENFORCEMENT CASE
.....PCB 96-245 PAMARCO, INC.
has been published in said paper and in every copy thereof for successive weeks, in the issues of said paper bearing dates of:

.....APRIL 17.....A.D. 1997

.....A.D. 19.....

.....A.D. 19.....

.....A.D. 19.....

and that said newspaper has been regularly published for more than six months prior to said first publication.

Given under my hand this 17TH day of

.....APRIL.....A.D. 1997

..... The Publisher

