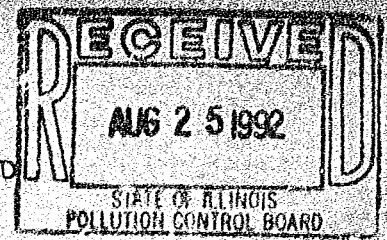


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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	No. PCB 92- /2)
)	
)	(Enforcement)
)	
MINNESOTA MINING AND)	
MANUFACTURING COMPANY a/k/a 3M,)	
)	
Defendant.)	

NOTICE OF FILING

TO: C.T. Corporation Systems	Michael A. Nash
208 South LaSalle Street	Senior Counsel
Chicago, IL 60604	3M Center Building 220-12E-02
	P.O. Box 33428
	St. Paul, MN 55133-3428

PLEASE TAKE NOTICE that we have today filed with the Illinois Pollution Control Board a Complaint and Certificate of Service on behalf of the Illinois Environmental Protection Agency, a copy of which is attached and herewith served upon you.

NOTIFICATION

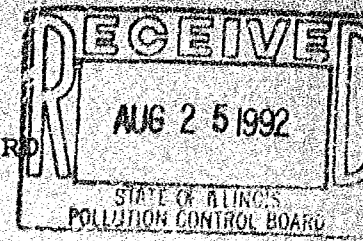
YOU ARE HEREBY NOTIFIED that financing that may be available through the Illinois Environmental Facilities Financing Act [Ill. Rev. Stat., ch. 127 §721, et seq.] to correct the alleged pollution.

Respectfully submitted,

ROLAND W. BURRIS
Attorney General of the
State of Illinois

By: Rebecca A. Burlingham
REBECCA A. BURLINGHAM
Assistant Attorney General
Environmental Control Division
100 W. Randolph St. - 12th Fl.
Chicago, IL 60601
(312)814-3776

Date: August 25, 1992
rabnof4w(1)



BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.) PCB 92- 121
)
 MINNESOTA MINING AND MANUFACTURING)
 COMPANY a/k/a 3M,)
)
 Respondent.)

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by ROLAND W. BURRIS, Attorney General of the State of Illinois, complains of Respondent, MINNESOTA MINING AND MANUFACTURING COMPANY a/k/a 3M, as follows:

COUNT I

CONDUCTING A HAZARDOUS WASTE MANAGEMENT OPERATION WITHOUT A RCRA PERMIT

1. This complaint is brought by the Attorney General on his own motion and upon the request of the Illinois Environmental Protection Agency ("IEPA" or "Agency") pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act (hereinafter "Act"), Ill. Rev. Stat. 1991, ch. 111-1/2, par. 1031.

2. The Agency is an administrative agency of the State of Illinois, created pursuant to the Act, Ill. Rev. Stat. 1991, ch. 111-1/2, par. 1004, and is charged, inter alia, with the duty of enforcing the Act.

3. Respondent, Minnesota Mining and Manufacturing Company a/k/a 3M ("3M"), is a Delaware corporation licensed to do business in Illinois. 3M owns a plant located in Cordova, Rock Island County, Illinois, which is operated by 3M's Specialty Chemicals Division and Magnetic Media Division.

4. The Specialty Chemicals Division manufactures chemical products such as fluorochemicals, resins and polymers for use by other 3M divisions. The waste produced by these manufacturing processes consists primarily of spent solvents used in cleaning operations, ignitable by-products and corrosive liquids.

5. The Magnetic Audio/Video Division manufactures iron oxide particles for magnetic recording media. No hazardous wastes are produced by this division except for small quantities of laboratory wastes.

6. On March 31, 1987, the Agency issued a permit to 3M to operate a hazardous waste management facility. This permit was issued pursuant to the Resource Conservation and Recovery Act of 1976 ("RCRA"), 42 U.S.C. § 6901 et seq., Section 39(d) of the Act, Ill. Rev. Stat. 1991, ch. 111-1/2, par. 1039(d), and Title 35 Illinois Administrative Code Subtitle G (35 Ill. Adm. Code).

7. The permit ("RCRA Part B permit") for the facility became effective on May 5, 1987 and will expire on May 1, 1995. The Part B permit allows the facility to do the following: 1) store hazardous waste in containers on a 50 by 175-foot concrete pad, 2) store hazardous waste in a tank, and 3) treat hazardous waste in a 35 MBTU/hr. incinerator.

8. The Part B permit contains all the standard conditions required by Sections 702 and 703 of 35 Ill. Adm. Code, the general facility conditions required by Section 724, and the special conditions of Section 724 for the storage of hazardous waste in containers and tanks.

9. During two inspections of 3M's facility, on November 19, 1991 and November 25, 1991, the Agency discovered that four 55-gallon drums containing waste were located outside the laboratory in Building #50. The drums had the following accumulation dates:

Mercuric Chloride, dated 5/23/91 (186 days on site)
Mercuric Chloride, dated 7/1/91 (147 days on site)
Mercuric Chloride, dated 8/17/91 (100 days on site)
Acetone, dated 4/7/91 (232 days on site)

10. The Part B permit issued to the facility describes a 50 by 175-foot storage pad area as the only permitted container storage area at the facility. Therefore, the drums stored in this satellite accumulation area were stored outside of a permitted area and not covered by the facility's Part B permit.

11. Section 21(f)(2) of the Act, Ill. Rev. Stat. 1991, ch. 111-1/2, par. 1021(f)(2), provides:

No person shall:

- * * *
- f. Conduct any hazardous waste-storage, hazardous waste-treatment or hazardous waste-disposal operation:
- * * *
2. In violation of any regulations or standards adopted by the Board under this Act;

12. Section 703.120(b)(1) of the Illinois Pollution Control Board ("Board") Waste Disposal Regulations, 35 Ill. Adm. Code 703.120(b)(1), provides:

b) This Subpart:

- 1) Prohibits the conduct of hazardous waste management operations without a RCRA permit (Sections 703.121 and 703.122);

13. 3M is a hazardous waste management facility. It applied for and was issued a RCRA Part B permit to operate a hazardous waste management facility. When it stored the four drums containing mercuric chloride and acetone outside the permitted area, as alleged in paragraphs 9 and 10, above, it conducted hazardous waste management operations without a permit, in violation of Section 703.120(b)(1) of the Board Waste Disposal Regulations.

14. By its actions as alleged herein, 3M also conducted a hazardous waste storage operation in violation of a Board regulation, and has thereby violated Section 21(f)(2) of the Act, Ill. Rev. Stat. 1991, ch. 111-1/2, par. 1021(f)(2).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, MINNESOTA MINING AND MANUFACTURING COMPANY a/k/a 3M, 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 Respondent has violated Section 21(f)(2) of the Act and 35 Ill. Adm. Code Section 703.120(b)(1);

3. Ordering Respondent to cease and desist from any further violations of Section 21(f)(2) of the Act and 35 Ill. Adm. Code 703.120(b)(1);

4. Assessing against Respondent a civil penalty of Twenty-Five Thousand Dollars (\$25,000.00) per day for each violation of Section 21(f) of the Act, or any RCRA permit or term or condition thereof, or any filing requirement, regulation or order relating to the State RCRA program;

5. Ordering Respondent to pay all costs, 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

VIOLATION OF RCRA PART B PERMIT CONDITION

1-10. Complainant realleges and incorporates by reference herein paragraphs 1 through 10 of Count I as paragraphs 1 through 10 of this Count II.

11. Section 21(f)(1) of the Act, Ill. Rev. Stat. 1991, ch. 111-1/2, par. 1021(f)(1), provides in pertinent part:

No person shall:

* * *

- 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 .
...

12. Complainant realleges and incorporates by reference herein paragraph 11 of Count I as paragraph 12 of this Count II.

13. Section 702.141 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 702.141, provides:

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Illinois Environmental Protection Act and is grounds: for an enforcement action; for permit revocation or modification; or for denial of a permit renewal application.

14. Section 703.120(b)(4) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 703.120(b)(4), provides:

b) This Subpart:

* * *

- 4) Prohibits violation of the conditions of RCRA permits (Section 703.122);

15. 3M's RCRA Part B permit contains the following standard condition:

- 14. Reporting Planned Changes. The permittee shall give notice to the Agency as soon as possible of any planned physical alterations or additions to the permitted facility.

For a new HWM facility, the permittee may not commence treatment, storage or disposal of hazardous waste; and for a facility being modified the permittee may not treat, store or dispose of hazardous waste in the modified portion of the facility, until;

(a) The permittee has submitted to the Agency by certified mail or hand delivery a letter signed by the permittee and a registered professional engineer stating that the facility has been constructed or modified in compliance with the permit; and

(b)

(1) The Agency has inspected the modified or newly constructed facility and finds it is in compliance with the condition of the permit; or

(2) If, within 15 days of the date of submission of the letter in paragraph (a), the permittee has not received notice from the Agency of its intent to inspect, prior inspection is waived and the permittee may commence treatment, storage or disposal of hazardous waste.
(35 IAC 703.244 and 702.152(a))

16. By storing the four drums containing mercuric chloride and acetone outside the permitted area, as alleged in paragraphs 9 and 10 of Count I, 3M sought to add to the permitted facility. 3M failed to notify the Agency of the planned addition to the facility, thereby violating Condition 14 of its RCRA Part B permit.

17. In violating Condition 14 of its RCRA Part B permit, 3M violated Sections 702.141 and 703.120(b)(4) of the Board Waste Disposal Regulations.

18. 3M also violated Section 21(f)(1) of the Act by conducting hazardous waste storage in violation of a condition imposed by its RCRA Part B permit.

19. By storing hazardous waste in violation of Sections 702.141 and 703.120(b)(4) of the Board Waste Disposal Regulations, 3M violated Section 21(f)(2) of the Act, Ill. Rev. Stat. 1991, ch. 111-1/2, par. 1021(f)(2).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, MINNESOTA MINING AND MANUFACTURING COMPANY a/k/a 3M, 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 Respondent has violated Sections 21(f)(1) and 21(f)(2) of the Act, 35 Ill. Adm. Code Sections 702.141 and 703.120(b)(4), and Condition 14 of its RCRA Part B permit;

3. Ordering Respondent to cease and desist from any further violations of Sections 21(f)(1) and 21(f)(2) of the Act, 35 Ill. Adm. Code 702.141 and 703.120(b)(4), and Condition 14 of its RCRA Part B permit;

4. Assessing against Respondent a civil penalty of Twenty-Five Thousand Dollars (\$25,000.00) per day for each violation of Section 21(f) of the Act, or any RCRA permit or term or condition thereof, or any filing requirement, regulation or order relating to the State RCRA program;

5. Ordering Respondent to pay all costs, 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

STORING HAZARDOUS WASTE WITHOUT A RCRA PERMIT

1-11. Complainant realleges and incorporates by reference herein paragraphs 1 through 10 of Count I and paragraph 11 of Count II as paragraphs 1 through 11 of this Count III.

12. Section 703.121(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 703.121(a), provides:

- a) No person shall conduct any hazardous waste storage, hazardous waste treatment or hazardous waste disposal operation:
 - 1) Without a RCRA permit for the HWM (hazardous waste management) facility;

13. From April 7, 1991, through at least November 25, 1991, 3M stored four drums containing mercuric chloride and acetone in an area which was outside the storage area specified in its RCRA Part B permit, and therefore stored hazardous waste without a RCRA permit, in violation of Section 703.121(a) of the Board Waste Disposal Regulations and Section 21(f)(1) of the Act, Ill. Rev. Stat. 1991, ch. 111-1/2, par. 1021(f)(1).

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

Respondent, MINNESOTA MINING AND MANUFACTURING COMPANY a/k/a 3M,
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 Respondent has violated Section 21(f)(1) of the Act and 35 Ill. Adm. Code Section 703.121(a);

3. Ordering Respondent to cease and desist from any further violations of Section 21(f)(1) of the Act and 35 Ill. Adm. Code 703.121(a);

4. Assessing against Respondent a civil penalty of Twenty-Five Thousand Dollars (\$25,000.00) per day for each violation of Section 21(f) of the Act, or any RCRA permit or term or condition thereof, or any filing requirement, regulation or order relating to the State RCRA program;

5. Ordering Respondent to pay all costs, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

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

COUNT IV

VIOLATION OF RCRA PART B PERMIT CONDITION

1-11. Complainant realleges and incorporates by reference herein paragraphs 1 through 10 of Count I and paragraph 11 of Count II as paragraphs 1 through 11 of this Count IV.

12. Section 702.152(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 702.152(a), provides:

- a) Planned changes. The permittee shall give notice to the Agency as soon as possible of any planned physical alterations or additions to the permitted facility.

13. 3M's RCRA Part B permit contains the following standard condition:

15. Anticipated Noncompliance. The Permittee shall give advance notice to the Agency of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. (35 IAC 702.152(b))

14. 3M failed to give the Agency advance notice of its intention to store drums containing mercuric chloride and acetone outside the storage area specified in 3M's RCRA Part B permit, thereby violating Condition 15 of the permit and Section 702.152(a) of the Board Waste Disposal Regulations.

15. By storing drums containing mercuric chloride and acetone in violation of Condition 15 of its RCRA Part B permit, 3M conducted a hazardous waste storage operation in violation of a condition of a RCRA permit, which is a violation of Section 21(f)(1) of the Act, Ill. Rev. Stat. 199., ch. 111-1/2, par. 1021(f)(1).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, MINNESOTA MINING AND MANUFACTURING COMPANY a/k/a 3M, on Count IV:

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

2. Finding that Respondent has violated Section 21(f)(1) of the Act, 35 Ill. Adm. Code 702.152(a) and Condition 15 of its RCRA Part B permit;

3. Ordering Respondent to cease and desist from any further violations of Section 21(f)(1) of the Act, 35 Ill. Adm. Code 702.152(a) and Condition 15 of its RCRA Part B permit;

4. Assessing against Respondent a civil penalty of Twenty-Five Thousand Dollars (\$25,000.00) per day for each violation of Section 21(f) of the Act, or any RCRA permit or term or condition thereof, or any filing requirement, regulation or order relating to the State RCRA program;

5. Ordering Respondent to pay all costs, 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

ROLAND W. BURRIS,
Attorney General
State of Illinois

BY:

Matthew J. Dunn

MATTHEW J. DUNN, Chief
Environmental Control Division
Assistant Attorney General

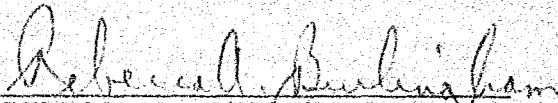
Of Counsel:

JOSEPH J. ANNUNZIO, Deputy Chief
WILLIAM D. SEITH, Deputy Chief
REBECCA A. BURLINGHAM
Assistant Attorneys General
100 W. Randolph St. - 12th Fl.
Chicago, IL 60601
(312)814-3776

rabco21w

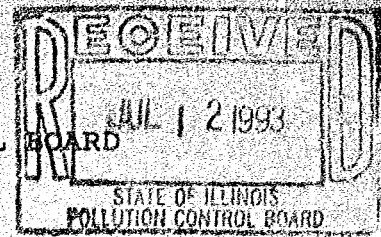
CERTIFICATE OF SERVICE

I, REBECCA A. BURLINGHAM, an Assistant Attorney General in this case, do certify that I caused to be mailed this 25th day of August, 1992, the foregoing Notice of Filing and Complaint upon the person(s) listed on said Notice by certified mail in an envelope bearing sufficient postage with the United States Postage Service located at 100 West Randolph Street, Chicago, Illinois.


REBECCA A. BURLINGHAM

rabnof4w(2)

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.)
)
 MINNESOTA MINING AND MANUFACTURING)
 COMPANY a/k/a 3M,)
)
 Respondent.)

R.
 PCB 93-121
 (Enforcement)

NOTICE OF FILING

TO: Michael A. Nash
 Senior Counsel
 3M Center Building 220-12E-02
 P.O. Box 33428
 St. Paul, MN 55133-3428

Edwin H. Benn, Esq.
 419 Woodlawn Avenue
 Glencoe, IL 60022

PLEASE TAKE NOTICE that on the 12th day of July, 1993, I filed with the Clerk of the Illinois Pollution Control Board a Stipulation and Proposal for Settlement and Motion to Request Relief From Hearing Requirement, copies of which are attached hereto and hereby served upon you.

PEOPLE OF THE STATE OF ILLINOIS

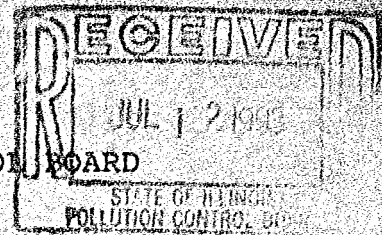
ROLAND W. BURRIS
 Attorney General of the
 State of Illinois

BY: *Rebecca A. Burlingham*
 REBECCA A. BURLINGHAM
 Assistant Attorney General
 Environmental Control Division
 100 W. Randolph St. - 12th fl.
 Chicago, IL 60601
 (312)814-3776

rabmo24w(4)

DATE: July 12, 1993

THIS FILING IS SUBMITTED ON RECYCLED PAPER



BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.)
)
 MINNESOTA MINING AND MANUFACTURING)
 COMPANY a/k/a 3M,)
)
 Respondent.)

92
 PCB 93-121
 (Enforcement)

STIPULATION AND PROPOSAL FOR SETTLEMENT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by ROLAND W. BURRIS, Attorney General of the State of Illinois, at the request of the Illinois Environmental Protection Agency, and Respondent, MINNESOTA MINING AND MANUFACTURING COMPANY a/k/a 3M, by its attorney, Michael A. Nash, do hereby submit this Stipulation and Proposal for Settlement. The parties agree that the statement of facts contained herein represents a fair summary of the evidence and testimony which would be introduced by the parties if a full hearing were held. The parties further stipulate that this statement of facts is made and agreed upon for purposes of settlement only and that neither the fact that a party has entered into this Stipulation, nor any of the facts stipulated herein, shall be introduced into evidence in this or any other proceeding except to enforce the terms hereof by the parties to this agreement. The agreement shall be null and void unless the Illinois Pollution Control Board ("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 Illinois Environmental Protection Act ("Act"), Ill. Rev. Stat. 1991, ch. 111-1/2, par. 1001 et seq.

II.

AUTHORIZATION

The undersigned representatives for each party certify that they are fully authorized by the party whom they represent to enter into the terms and conditions of this Stipulation and Proposal For Settlement and to legally bind them to it.

III.

APPLICABILITY

This Stipulation and Proposal For Settlement shall apply to and be binding upon the Complainant and Respondent, as well as the successors and assignees of each and any officer, director, agent, employee or servant of Respondent. The Respondent shall not raise as a defense to any enforcement action taken pursuant to this Settlement the failure of its agents, servants or employees to take such action as shall be required to comply with the provisions of this Settlement.

IV.

STATEMENT OF FACTS

1. The Illinois Environmental Protection Agency ("Agency") is an administrative agency established in the executive branch of the State government by Section 4 of the Act, Ill. Rev. Stat. 1991, ch. 111-1/2, par. 1004, and charged, inter alia, with the duty of enforcing the Act.

2. Respondent, Minnesota Mining and Manufacturing Company a/k/a 3M ("3M"), is a Delaware corporation licensed to do business in Illinois. 3M owns a plant located in Cordova, Rock Island County, Illinois, which is operated by 3M's Specialty Chemicals Division and Audio and Video Technology Division.

3. The Specialty Chemicals Division manufactures chemical products such as fluorochemicals, resins and polymers for use by other 3M divisions. The waste produced by these manufacturing processes consists primarily of spent solvents used in cleaning operations, ignitable by-products and corrosive liquids.

4. The Audio and Video Technology Division manufactures iron oxide particles for magnetic recording media. No hazardous wastes are produced by this division except for small quantities of laboratory wastes.

5. On March 31, 1987, the Agency issued a permit to 3M to operate a hazardous waste management facility. This permit was issued pursuant to the Resource Conservation and Recovery Act of 1976 ("RCRA"), 42 U.S.C. § 6901 et seq., Section 39(d) of the

Act, Ill. Rev. Stat. 1991, ch. 111-1/2, par. 1039(d), and Title 35 Illinois Administrative Code Subtitle G (35 Ill. Adm. Code).

6. The RCRA Part B permit ("Part B permit") for the facility became effective on August 22, 1989 and will expire on May 1, 1995. The Part B permit allows the facility to do the following: 1) store hazardous waste in containers on a 50-foot by 175-foot concrete pad, 2) store hazardous waste in a tank, and 3) treat hazardous waste in a 35 MBTU/hr. incinerator. (The incinerator has been closed and is no longer present on the facility.)

7. The Part B permit contains all the standard conditions required by Sections 702 and 703 of 35 Ill. Adm. Code, the general facility conditions required by Section 724, and the special conditions of Section 724 for the storage of hazardous waste in containers and tanks.

8. During an inspection on November 25, 1991, the Agency discovered that four 55-gallon drums containing hazardous waste were located outside the laboratory in Building #50. The drums had the following accumulation dates:

Mercuric Chloride, dated 5/23/91 (186 days on site)
Mercuric Chloride, dated 7/1/91 (147 days on site)
Mercuric Chloride, dated 8/17/91 (100 days on site)
Acetone, dated 4/7/91 (232 days on site)

9. The Part B permit issued to the facility describes a 50-foot by 175-foot storage pad area as the only permitted container storage area at the facility. Therefore, the facility personnel stored hazardous waste in an unpermitted area.

10. The drums which are the subject of this proceeding were removed from the laboratory storage pad on November 25, 1991, and were ultimately treated and disposed of at a hazardous waste facility in compliance with all federal and state laws.

V.

NATURE OF RESPONDENT'S OPERATIONS

See Statement of Facts, Section IV, paragraphs 2 through 4, above.

VI.

EXPLANATION OF PAST FAILURES TO COMPLY WITH THE ACT

1. Section 21(f)(2) of the Act, Ill. Rev. Stat. 1991, ch. 111-1/2, par. 1021(f)(2), provides:

No person shall:

* * *

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

* * *

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

2. Section 703.120(b)(1) of the Illinois Pollution Control Board ("Board") Waste Disposal Regulations, 35 Ill. Adm. Code 703.120(b)(1), provides:

b) This Subpart:

1) Prohibits the conduct of hazardous waste management operations without

a RCRA permit (Sections 703.121 and 703.122);

3. 3M is a hazardous waste management facility. It applied for and was issued a RCRA Part B permit to operate a hazardous waste management facility. When it stored the four drums containing mercuric chloride and acetone outside the permitted area, as alleged herein, it conducted hazardous waste management operations without a permit, in violation of Section 703.120(b)(1) of the Board Waste Disposal Regulations.

4. By its actions as alleged herein, 3M also conducted a hazardous waste storage operation in violation of a Board regulation, and has thereby violated Section 21(f)(2) of the Act, Ill. Rev. Stat. 1991, ch. 111-1/2, par. 1021(f)(2).

5. Section 21(f)(1) of the Act, Ill. Rev. Stat. 1991, ch. 111-1/2, par. 1021(f)(1), provides in pertinent part:

no person shall:

* * *

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 . . .

6. Section 702.141 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 702.141, provides:

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Illinois Environmental Protection Act and is grounds:

for an enforcement action; for permit revocation or modification; or for denial of a permit renewal application.

7. Section 703.120(b)(4) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 703.120(b)(4), provides:

b) This Subpart:

*

*

*

4) Prohibits violation of the conditions of RCRA permits (Section 703.122);

8. 3M's RCRA Part B permit contains the following standard condition:

14. Reporting Planned Changes. The permittee shall give notice to the Agency as soon as possible of any planned physical alterations or additions to the permitted facility. For a new HWM facility, the permittee may not commence treatment, storage or disposal of hazardous waste; and for a facility being modified the permittee may not treat, store or dispose of hazardous waste in the modified portion of the facility, until:

(a) The permittee has submitted to the Agency by certified mail or hand delivery a letter signed by the permittee and a registered professional engineer stating that the facility has been constructed or modified in compliance with the permit; and

(b)

(1) The Agency has inspected the modified or newly constructed facility and finds it is in compliance with the condition of the permit; or

(2) If, within 15 days of the date of submission of the letter in paragraph (a), the permittee has not received notice from

the Agency of its intent to inspect, prior inspection is waived and the permittee may commence treatment, storage or disposal of hazardous waste. (35 IAC 703.244 and 702.152(a))

9. By storing the four drums containing mercuric chloride and acetone outside the permitted area, as alleged in paragraphs 9 and 10 of Count I, 3M sought to add storage capacity to the permitted facility. 3M failed to notify the Agency of the planned addition to the facility, thereby violating Condition 14 of its RCRA Part B permit.

10. In violating Condition 14 of its RCRA Part B permit, 3M violated Sections 702.141 and 703.120(b)(4) of the Board Waste Disposal Regulations.

11. 3M also violated Section 21(f)(1) of the Act by conducting hazardous waste storage in violation of a condition imposed by its RCRA Part B permit.

12. By storing hazardous waste in violation of Sections 702.141 and 703.120(b)(4) of the Board Waste Disposal Regulations, 3M violated Section 21(f)(2) of the Act, Ill. Rev. Stat. 1991, ch. 111-1/2, par. 1021(f)(2).

13. Section 703.121(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 703.121(a), provides:

a) No person shall conduct any hazardous waste storage, hazardous waste treatment or hazardous waste disposal operation:

1) Without a RCRA permit for the HWM (hazardous waste management) facility;

14. 3M stored four drums as listed on page 4, paragraph 3, in an area outside of the permitted RCRA storage area, and therefore stored hazardous waste in an area not included in the RCRA permit, violating Section 703.121(a) of the Board Waste Disposal Regulations and Section 21(f)(1) of the Act, Ill. Rev. Stat. 1991, ch. 111-1/2, par. 1021(f)(1).

15. Section 702.152(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 702.152(a), provides:

- a) Planned changes. The permittee shall give notice to the Agency as soon as possible of any planned physical alterations or additions to the permitted facility.

16. 3M's RCRA Part B permit contains the following standard condition:

15. Anticipated Noncompliance. The Permittee shall give advance notice to the Agency of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. (35 IAC 702.152(b))

17. 3M failed to give the Agency advance notice of its intention to store drums containing mercuric chloride and acetone outside the storage area specified in 3M's RCRA Part B permit, thereby violating Condition 15 of the permit and Section 702.152(a) of the Board Waste Disposal Regulations.

18. By storing drums containing mercuric chloride and acetone in violation of Condition 15 of its RCRA Part B permit, 3M conducted a hazardous waste storage operation in violation of a condition of a RCRA permit, which is a violation of Section

21(f)(1) of the Act, Ill. Rev. Stat. 1991, ch. 111-1/2, par. 1021(f)(1).

VII.

FUTURE PLANS OF COMPLIANCE

Respondent, 3M, shall diligently conform to, and shall cease and desist from further violations of, the Act, the regulations promulgated thereunder and the conditions of its RCRA Part B permit.

VIII.

IMPACT ON PUBLIC RESULTING FROM NON-COMPLIANCE

Section 33(c) of the Act, Ill. Rev. Stat. 1991, ch. 111-1/2, par. 1033(c), 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 as follows:

1. Impact to the public resulting from 3M's non-compliance was minimal. Even though the four drums of hazardous waste were stored outside the permitted area, they were maintained in a responsible manner. The waste posed a relatively low risk of exposure to humans and the environment. The drums in which waste was stored were in excellent condition. They were placed on a wooden skid on top of a concrete pad. All of the containers were placed within a curbed area. Moreover, the area was inspected weekly for potential problems.

2. The parties agree that 3M's facility is of social and economic benefit;

3. The plant is suitable to the area in which it is located;

4. Complying with the requirements of the Act, the Board Regulations and 3M's RCRA Part B permit is both technically practicable and economically reasonable; and

5. 3M did subsequently correct the alleged violations by removing the drums from the storage pad and appropriately managing them.

IX.

CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, Ill. Rev. Stat. 1991, ch. 111-1/2, par. 1042(h), 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
- 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 violation was approximately three months. A permit violation was at issue. In addition, substantive violations of the Act and Board Regulations were found;

2. 3M responded to the violations discovered during the Agency's November 25, 1991, inspection by immediately moving the containers of hazardous waste out of the unpermitted area and properly disposing of the containers and their contents;

3. 3M accrued no economic benefit because of its delay in compliance;

4. Complainant has determined, in this instance, that a penalty of Thirty Thousand Dollars (\$30,000.00) will serve to deter further violations and aid in future voluntary enforcement of the Act and Board Regulations; and

5. Respondent has no previously adjudicated violations of the Act.

X.

POLLUTION PREVENTION

3M had implemented a pollution prevention project that reduced the mercuric oxide waste by seventy percent prior to the inspection on November 25, 1991. In recognition of 3M's commitment toward pollution prevention; 3M's Total Quality Environmental Management Program; and 3M's actual efforts in pollution prevention, the State agreed to lower the amount of the penalty from the original penalty demand.

XI.

TERMS OF SETTLEMENT

1. Respondent, 3M, does not admit to the past violations of Sections 21(f)(1) and 21(f)(2) of the Act, Ill. Rev. Stat. 1991, ch. 111-1/2, pars. 1021(f)(1) and 1021(f)(2), 35 Ill. Adm. Code 702.141, 702.152(a), 703.120(b)(1), 703.120(b)(4) and 703.121(a), and Conditions 14 and 15 of its RCRA Part B permit. However, 3M waives any right to contest that this settlement may be considered in future, if any, compliance penalty calculations.

2. Respondent shall pay a penalty of Thirty Thousand Dollars (\$30,000.00) into the Illinois Hazardous Waste Fund within thirty (30) days from the date on which the Pollution Control Board adopts a final order approving this Stipulation and Proposal For Settlement. Payment shall be made by certified check or money order, payable to the Treasurer of the State of Illinois, designated to the Hazardous Waste Fund, and shall be sent by first class mail to:

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

3M's Federal Employers Identification Number, 41-0417775, shall be written upon the certified check or money order.

3. Respondent shall comply with all terms and conditions of its RCRA Part B permit, as amended.

4. Respondent shall cease and desist from further violations of the Act and regulations promulgated thereunder.

XII.

COMPLIANCE WITH OTHER LAWS AND REGULATIONS

This Settlement Agreement in no way affects Respondent's responsibility to comply with any federal, state or local regulations, including but not limited to, the Act, Ill. Rev. Stat. 1991, ch. 111-1/2, par. 1001 et seq., and the Board Waste Disposal Regulations.

XIII.

RIGHT OF ENTRY

In addition to any other authority, the Agency, its employees and representatives, and the Illinois Attorney General, his agents and representatives, shall have right of entry to 3M's facility at all reasonable times, for the purpose of conducting inspections. In conducting any inspection of 3M's facility, the Agency, 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.

XIV.

RELEASE FROM LIABILITY

In consideration of Respondent's payment of a \$30,000.00 penalty and commitment to refrain from further violations of the Act, the Agency releases, waives and discharges Respondent from any further liability or penalties from violations of the Act which were the subject matter of the complaint herein. However, nothing in this Settlement Agreement shall be construed as a waiver by complainant of the right to redress future violations or obtain penalties with respect thereto.

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

AGREED:

FOR THE COMPLAINANT:

PEOPLE OF THE STATE OF ILLINOIS

ROLAND W. BURRIS
Attorney General of the
State of Illinois

By: *Matthew J. Dunn*
MATTHEW J. DUNN, Chief
Environmental Control Division
Assistant Attorney General

Dated: 7/6/93

FOR THE RESPONDENT:

MINNESOTA MINING AND
MANUFACTURING COMPANY
a/k/a 3M

By: *R. P. Bringer*
R. P. Bringer
Its Staff Vice President

FEIN #41-0417775

Dated: June 16, 1993

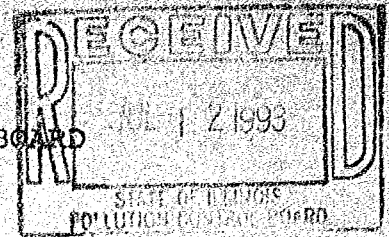
ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: *Joseph E. Svobeda*
JOSEPH E. SVOBODA
General Counsel

Dated: 6/30/93

rabst7w

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD



PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.)
)
 MINNESOTA MINING AND MANUFACTURING)
 COMPANY a/k/a 3M,)
)
 Respondent.)

92
 PCB 92-121
 (Enforcement)

MOTION TO REQUEST RELIEF
 FROM HEARING REQUIREMENT

NOW COMES the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by ROLAND W. BURRIS, 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 August 25, 1992, a Complaint was filed before the Board. On July 12, 1993, a Stipulation and Proposal for Settlement was filed.

2. On August 13, 1991, the Governor signed into law legislation amending Section 31 of the Environmental Protection Act. The amendment allows the 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 (a), 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).

Ill. Rev. Stat., ch. 111-1/2, par. 1031(a)(2).

3. No hearing has been scheduled in the instant case.

4. The Complainant requests the relief conferred by Public Act 87-0134.

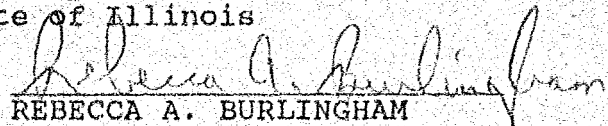
WHEREFORE, the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by ROLAND W. BURRIS, Attorney General of the State of Illinois, requests relief from requirement of a hearing pursuant to Ill. Rev. Stat., ch. 111-1/2, par. 1031(a)(2), effective August 13, 1991.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

ROLAND W. BURRIS
Attorney General of the
State of Illinois

By:


REBECCA A. BURLINGHAM
Assistant Attorney General

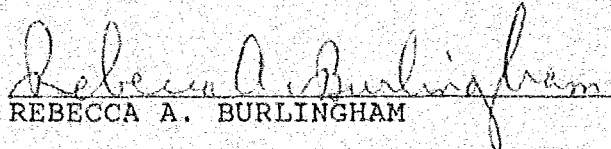
Of Counsel:

MATTHEW J. DUNN, Chief
JOSEPH ANNUNZIO, Deputy Chief
WILLIAM D. SEITH, Deputy Chief
Assistant Attorneys General
Environmental Control Division
100 West Randolph Street-12th Flr.
Chicago, IL 60601
(312)814-3776

rabmo24w

CERTIFICATE OF SERVICE

I, REBECCA A. BURLINGHAM, an Assistant Attorney General in this case, do certify that I caused to be mailed this 12th day of July, 1993, the foregoing Stipulation and Proposal for Settlement, Motion to Request Relief from Hearing Requirement and Notice of Filing upon the person(s) listed on said Notice by depositing same in an envelope, postage prepaid, with the United States Postal Service at 100 West Randolph Street, Chicago, Illinois.


REBECCA A. BURLINGHAM

rabmo24w(5)

ILLINOIS POLLUTION CONTROL BOARD
July 22, 1993

PEOPLE OF THE STATE)	
OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 92-121
)	(Enforcement)
MINNESOTA MINING AND,)	
MANUFACTURING COMPANY)	
a/k/a 3M,)	
)	
Respondent.)	

ORDER OF THE BOARD (by J. Anderson):

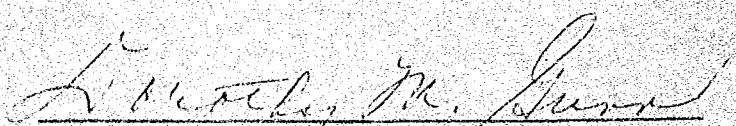
This complaint was filed on July 12, 1993. On the same day, the parties filed a request for relief from the otherwise applicable requirement of Section 31(a)(1) of the Act (415 ILCS 5/31(a)(1)) that proposed stipulated settlements be presented at public hearing. Section 31(a)(2) (415 ILCS 5/31(a)(1)) provides in pertinent part as follows:

Notwithstanding the provisions of subdivision (1) of this subsection (a), 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).

The Board accordingly directs the Clerk to cause publication of the required newspaper notice. The Board will reserve ruling on the parties' request until after the statutory 21 days has passed.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 22nd day of July, 1993, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD
August 26, 1993

PEOPLE OF THE STATE)	
OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 92-121
)	(Enforcement)
MINNESOTA MINING AND)	
MANUFACTURING COMPANY)	
a/k/a 3M,)	
a Delaware Corporation,)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by J. Anderson):

This matter comes before the Board upon a complaint filed August 25, 1992 on behalf of the People of the State of Illinois ("People"), by and through its attorney, Roland W. Burris, Attorney General of the State of Illinois, against Minnesota Mining and Manufacturing Company, a Delaware Corporation located in Cordova, Rock Island County, Illinois. The complaint alleges that Minnesota Mining and Manufacturing Company has violated Section 21(f)(1) and 21(f)(2) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/21(f)(1) and 21(f)(2), and 35 Ill. Adm. Code 702.141, 702.152(a), 703.120(b)(1) and (b)(4), and 703.121(a) of the Board's rules.

Pursuant to 415 ILCS 5/31(a)(1), a joint Motion requesting relief from the Act's hearing requirement was filed by the parties on July 12, 1993. Notice of the waiver was published by the Board on July 29, 1993; no objection to grant of the waiver was received. Waiver of hearing is hereby granted.

A Stipulation and Settlement Agreement was filed by the parties on July 12, 1993. The Stipulation sets forth facts relating to the nature, operations and circumstances surrounding the claimed violations. Minnesota Mining and Manufacturing Company neither admits nor denies the alleged violations. Minnesota Mining and Manufacturing Company agrees to pay a civil penalty of Thirty Thousand Dollars (\$30,000.00).

The Board has authority to impose a penalty where the parties have stipulated to a penalty, but not to a finding of violation. See, Chemetco, Inc. v. Illinois Pollution Control Board, 140 Ill. App.3d 283, 488 N.E.2d 639, 643 (5th Dist. 1986); and Archer Daniels Midland v. Pollution Control Board, 140 Ill.App.3d 823, 489 N.E.2d 887 (3rd Dist. 1986).

The Board finds the Settlement Agreement acceptable under 35 Ill. Adm. Code 103.180. This Settlement Agreement in no way affects respondent's responsibility to comply with any federal, state or local regulations, including but not limited to the Act and the Board's pollution control regulations.

This opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

- 1) The Board hereby accepts the Stipulation and Settlement Agreement executed by the People of the State of Illinois and Minnesota Mining and Manufacturing Company, concerning its operations located in Cordova, Rock Island County, Illinois. The Stipulation and Settlement Agreement are incorporated by reference as though fully set forth herein.
- 2) Minnesota Mining and Manufacturing Company shall pay the sum of Thirty Thousand Dollars (\$30,000.00) within 30 days of the date of this Order. Such payment shall be made by certified check or money order payable to the Treasurer of the State of Illinois, designated to the Hazardous Waste Fund, and shall be sent by First Class mail to:

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

Minnesota Mining and Manufacturing Company shall also write its Federal Employer Identification Number or Social Security Number on the certified check or money order.

Any sum penalty not paid within the time prescribed shall incur interest at the rate set forth in subsection (a) of Section 1003 of the Illinois Income Tax Act, (35 ILCS 5/1003), as now or hereafter amended, from the date payment is due until the date payment is received. Interest shall not accrue during the pendency of an appeal during which payment of the penalty has been stayed.

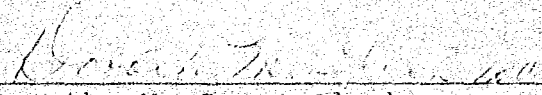
- 3) Minnesota Mining and Manufacturing Company shall cease and desist from the alleged violations.

Section 41 of the Environmental Protection Act (415 ILCS 5/41) provides for the appeal of final Board orders within 35

days. The Rules of the Supreme Court of Illinois establish filing requirements. (See also 35 Ill. Adm. Code 101.246, Motion for Reconsideration.)

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the 21 day of August, 1993, by a vote of 2-1.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board