



**Service List**

Jennifer Catalan  
Ensono, Inc.  
3333 Finley Road  
Downers Grove, IL 60515  
[Jennifer.Catalan@ensono.com](mailto:Jennifer.Catalan@ensono.com)  
(Via Email and Certified Mail)

**CERTIFICATE OF SERVICE**

I, Jason Clark, an Assistant Attorney General, certify that on the 8th day of December, 2023, I caused to be served the foregoing Notice of Filing Complainant's Complaint, Motion for Relief from Hearing Requirement and Stipulation and Proposed Settlement, on the parties named on the attached Service List by methods described.

/s/ Jason Clark  
Jason Clark  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
69 W. Washington Street, Suite 1800  
Chicago, Illinois 60602  
(773) 590-6964  
[Jason.Clark@ilag.gov](mailto:Jason.Clark@ilag.gov)

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS,	)	
by KWAME RAUOL, Attorney General	)	
of the State of Illinois,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB No. 24-
	)	(Enforcement - Air)
ENSONO, LLC, a Delaware limited liability	)	
company,	)	
	)	
Respondent.	)	

**COMPLAINT**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois (“Complainant”), complains of the Respondent, ENSONO, LLC, a Delaware limited liability company (“Respondent”), as follows:

**COUNT I**  
**FAILURE TO TIMELY SUBMIT COMPLETE AND ACCURATE**  
**ANNUAL EMISSIONS REPORT**

1. This Complaint is brought on behalf of the People of the State of Illinois by Kwame Raoul, Attorney General of the State of Illinois, on his own motion and at the request of the Illinois Environmental Protection Agency (“Illinois EPA”), against Respondent, pursuant to Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2022).

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 (2022), and is charged, *inter alia*, with the duty of enforcing the Act.

3. At all times relevant to this Complaint, Respondent has been and is a Delaware limited liability company registered to do business in Illinois.

4. At all times relevant to this Complaint, Respondent owned and operated an emergency generator at its headquarters located at 3333 Finley Road, Downers Grove, Illinois (“Ensono LP”).

5. At all times relevant to this Complaint, Respondent owned and operated an emergency diesel generator at its data center located at 1501 Opus Place, Downers Grove, Illinois (“Ensono Data Center”).

6. At all times relevant to this Complaint, Respondent’s facilities include the following sources of emissions: one (1) emergency generator at Ensono LP; and one (1) emergency diesel generator at Ensono Data Center. Both emergency generators at Respondent’s facilities have been capable of emitting carbon monoxide (CO), nitrogen oxides (NOx), particulate matter (PM), Sulfur Dioxide (SO<sub>2</sub>), and volatile organic matter (VOM).

7. Section (a) of the Act, 415 ILCS 5/9(a) (2022), provides as follows;

No person shall:

(a) Cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act.

8. Section 3.315 of the Act, 415 ILCS 5/3.315 (2022), 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.

9. Respondent, a limited liability company, is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2022).

10. Section 3.165 of the Act, 415 ILCS 5/3.165 (2022), provides the following definition:

“Contaminant” is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

11. CO, NO<sub>x</sub>, PM, SO<sub>2</sub>, and VOM are each a “contaminant” as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2022).

12. Section 201.302(a) of the Illinois Pollution Control Board (“Board”) Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), provides as follows:

The owner or operator of any emission unit or air pollution control equipment meeting the applicability criteria contained in 35 Ill. Adm. Code 254.102 shall submit to the Agency as a minimum, annual reports detailing the nature, specific emission units and total annual quantities of all specified air contaminant emissions; provided, however, that the Agency may require more frequent reports when necessary to accomplish the purposes of the Act and this Chapter.

13. Section 254.102(a)(2) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.102(a)(2), provides as follows:

a) Subpart B of this Part applies to:

\* \* \*

2) Owners or operators of any source required to have an operating permit in accordance with Section 39.5 of the Environmental Protection Act [415 ILCS 5/39.5];

14. Section 39.5(2)(a)(i) of the Act, 415 5/39.5(2)(a)(i), provides as follows:

2. Applicability.

a. Source subject to this Section shall include:

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

15. Section 39.5(2)(c)(ii) of the Act, 415 5/39.5(2)(c)(ii), provides as follows:

- c. For Purposes of this Section the term “major source” means any source that is:

\* \* \*

- ii. A major stationary source of air pollutants, as defined in Section 302 of the Clean Air Act, that directly emits or has the potential to emit, 100 tpy or more of any air pollutant subject to regulations (including any major source of fugitive emissions of any such pollutant, as determined by rule by USEPA).

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

- 3. Agency Authority to Issue CAAPP Permit 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.

17. At all times relevant to this Complaint, the emission units at the Ensono LP and Ensono Data Center have had the potential to emit 100 tpy of NOx, an air pollutant subject to regulation, and therefore have been, and continue to be a “major source” as that term is defined by Section 39.5(2)(c)(ii) of the Act, 415 ILCS 5/39.5(2)(c)(ii). Further, Respondent has submitted an application as a “major source” for a Federally Enforceable State Operating Permit (“FESOP”) pursuant to Section 39.5(3)(c) of the Act, 415 ILCS 5/39.5(3)(c).

18. Section 254.132(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a), provides as follows:

Failure to file a complete Annual Emissions Report by the applicable deadlines prescribed in Section 254.137(a) of this Subpart shall be a violation of this Part and 35 Ill. Adm. Code 201.302(a).

19. Section 254.137(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.137(a), provides as follows:

All Annual Emissions Reports are due by May 1 of the year following the calendar year in which the emissions took place.

20. Section 201.101 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.101, provides as follows:

(a) Except as stated and unless a different meaning of a term is clear from its context, the definitions of terms used in this Part shall be the same as those used in the Environmental Protection Act [415 ILCS 5] (Act).

(b) All terms defined in 35 Ill. Adm. Code 211 which appear in this Part have the definitions specified by 35 Ill. Adm. Code 211.

21. Section 201.102 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.102, provides the following definition:

"Emission Source" any equipment or facility of a type capable of emitting specified air contaminants to the atmosphere.

22. Section 211.4370 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.4370, provides the following definition:

"Owner or operator" means any person who owns, operates, leases, controls, or supervises a source, an emission unit or air pollution control equipment.

23. Section 211.370 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.370, provides the following definition:

"Air pollutant" means an air pollution agent or combination of such agents, including any physical, chemical, biological, radioactive (including source material, special nuclear material, and byproducts material) substance or matter which is emitted into or otherwise enters the atmosphere. Such term includes any precursors to the formation of any air pollutant, to the extent that the relevant statute or rule has identified such precursor for particular purpose for which the term "air pollutant" is used.



24. Section 211.1950 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.1950, provides the following definition:

“Emission unit” means any part or activity at a stationary source that emits or has the potential to emit any air pollutant.

28. Section 211.4970 of the Board’s Air Pollution Regulations, 35 Ill. Adm. Code 211.4970, provides the following definition:

“Potential to emit (PTE)” means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restriction on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is federally enforceable.

29. Section 211.6370 of the Board’s Air Pollution Regulations, 35 Ill. Adm. Code 211.6370, provides the following definition:

“Stationary source” means any building, structure, facility, or installation that emits or may emit any air pollutant.

25. At all times relevant to this Complaint, Respondent’s Ensono LP and Ensono Data Center each have been, and continue to be, a building, structure, facility, or installation which emits, may emit or has the “potential to emit” CO, NO<sub>x</sub>, PM, SO<sub>2</sub>, and VOM, each an “air pollutant”, thereby constituting a “stationary source”, as those terms are defined in Sections 211.370, 211.4970, 211.6370 of the Board’s Air Pollution Regulations, 35 Ill. Adm. Code 211.370, 211.4970 and 211.6370.

26. At all times relevant to this Complaint, Respondent has been, and continues to be, an operator of the emergency generators at its Ensono LP and Ensono Data Center, which are each a stationary source and an “emission source” and “emission units”, as those terms are defined in Section 201.102 of the Board’s Air Pollution Regulations, 35 Ill. Adm. Code 201.102, and Section 211.1950 of the Board’s Air Pollution Regulations, 35 Ill. Adm. Code 211.1950, and thereby

constituting an “owner or operator”, as that term is defined in Section 211.4370 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.4370.

27. Respondent, as the owner or operator of emission units, was required pursuant to Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Section 254.132(a) and 254.137(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a) and 254.137(a), to submit Annual Emissions Reports (“AERs”) to the Illinois EPA each year by May 1 for the preceding calendar year.

28. On August 26, 2022, Respondent submitted to the Illinois EPA its AER for calendar year 2021 for the Ensono LP, approximately 118 days late.

29. On August 26, 2022, Respondent submitted to the Illinois EPA its AER for calendar year 2021 for the Ensono Data Center, approximately 118 days late.

30. By failing to timely submit complete and accurate AERs for the calendar year 2021 for its Ensono LP and Ensono Data Center facilities, Respondent violated Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Section 254.132(a) of the Illinois EPA’s Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a). Respondent thereby violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2022).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, ENSONO LLC, a Delaware limited liability company with respect to Count I.

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

2. Finding that Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2022), and Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code

201.302(a), and Section 254.132(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a);

3. Ordering Respondent to cease and desist from any future violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2022), Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Section 254.132(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a);

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

5. Taxing all costs in this action, including, but not limited to, attorney, expert witness and consultant fees against Respondent; and

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

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS  
By KWAME RAOUL, Attorney General  
of the state of Illinois

MATTHEW J. DUNN, Chief  
Environmental Enforcement/Asbestos

Litigation Division

BY: /s/Stephen J. Sylvester  
STEPHEN J. SYLVESTER, Chief  
Environmental Bureau  
Assistant Attorney General

Of Counsel:  
JASON CLARK  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office

69 W. Washington St., Suite 1800  
Chicago, Illinois 60602  
(773) 590-6964  
[Jason.Clark@ilag.gov](mailto:Jason.Clark@ilag.gov)

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS,	)	
by KWAME RAUOL, Attorney General	)	
of the State of Illinois,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB No. 24-
	)	(Enforcement - Air)
ENSONO, LLC, a Delaware limited liability	)	
company,	)	
	)	
Respondent.	)	

**MOTION FOR RELIEF FROM HEARING REQUIREMENT**

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, and pursuant to Section 31(c)(2) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31(c)(2) (2022), move that the Illinois Pollution Control Board (“Board”) grant the parties in the above-captioned matter relief from the hearing requirement imposed by Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2022). In support of this Motion, Complainant states as follows:

1. The Complainant in this matter alleges violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2022), and Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a).
2. Complainant is filing the Complaint with the Board simultaneously with this Motion and a Stipulation and Proposal for Settlement.
3. Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2022), 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.
4. The parties have reached agreement on all outstanding issues in this matter.

5. This agreement is presented to the Board in a Stipulation and Proposal for Settlement filed this same date.

6. All parties agree that a hearing on the Stipulation and Proposal for Settlement is not necessary, and respectfully request relief from such a hearing as allowed by Section 31(c) of the Act, 415 ILCS 5/31(c)(2) (2022).

WHEREFROE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby requests that the Board grant this Motion for Relief from the hearing requirement set forth in Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2022).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

KWAME RAOUL  
Attorney General  
State of Illinois

BY: /s/ Jason Clark  
JASON CLARK  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
69 West Washington Street, Suite 1800  
Chicago, Illinois 60602  
(773) 590-6964  
Primary email: [Jason.Clark@ilag.gov](mailto:Jason.Clark@ilag.gov)  
Secondary email: [Maria.Cacaccio@ilag.gov](mailto:Maria.Cacaccio@ilag.gov)

DATE: December 8, 2023

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS,	)	
by KWAME RAOUL, Attorney General	)	
of the State of Illinois,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB No. 24-
	)	(Enforcement - Air)
ENSONO, LLC, a Delaware limited liability	)	
company,	)	
	)	
Respondent.	)	

**STIPULATION AND PROPOSAL FOR SETTLEMENT**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (“Illinois EPA”), and ENSONO, LLC, a Delaware limited liability company, (“Respondent”), (collectively “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. The 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. (2022), 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 is to be a final adjudication of this matter.

**I. STATEMENT OF FACTS**

**A. Parties**

1. Simultaneously with this Stipulation, a Complaint was filed on behalf of the People of the State of Illinois by Kwame Raoul, Attorney General of the State of Illinois, on his own

motion and upon the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2022), against 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 (2022).

3. At all times relevant to the Complaint, Ensono LLC, has been and is a Delaware limited liability company registered to do business in Illinois.

4. At all times relevant to the Complaint, Respondent owned and operated an emergency generator at its headquarters located at 3333 Finley Road, Downers Grove, Illinois (“Ensono LP”).

5. At all times relevant to the Complaint, Respondent owned and operated an emergency diesel generator at its data center located at 1501 Opus Place, Downers Grove, Illinois (“Ensono Data Center”).

6. At all times relevant to this Complaint, Respondent’s facilities include the following sources of emissions: one (1) emergency generator at Ensono LP; and one (1) emergency diesel generator at Ensono Data Center. Both emergency generators at Respondent’s facilities have been capable of emitting carbon monoxide (CO), nitrogen oxides (NO<sub>x</sub>), particulate matter (PM), sulfur dioxide (SO<sub>2</sub>), and volatile organic matter (VOM).

**B. Allegations of Non-Compliance**

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

Count I: Failure to Timely Submit Complete and Accurate Annual Emissions Report for Calendar Year 2021, in violation of Section 9(a) of the Act, 415 ILCS 5/9(a) (2022), and Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a).



**C. Non-Admission of Violations**

Respondent represents that it has entered into this Stipulation for the purpose of settling and compromising disputed claims without having to incur the expense of contested litigation. By entering into this Stipulation and complying with its terms, Respondent does not affirmatively admit the allegations of violations within the Complaint and referenced within Section I.B herein, and this Stipulation shall not be interpreted as including such admission.

**D. Compliance Activities to Date**

On August 26, 2022, the Illinois EPA received Respondent's Annual Emissions Reports for the calendar year 2021 for both Ensono LP and Ensono Data Center.

**II. APPLICABILITY**

This Stipulation shall apply to and be binding upon the Parties to the Stipulation. 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 assignees to take such action as shall be required to comply with the provisions of this Stipulation. This Stipulation may be used against 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, solely for purposes of Section 39 and 42 of the Act, 415 ILCS 5/39 and 5/42 (2022).

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

Section 33(c) of the Act, 415 ILCS 5/33(c) (2022), provides as follows:

In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness or 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 Illinois EPA's information gathering responsibilities were hindered by Respondent's violations.
2. There is social and economic benefit to Ensono LP and Ensono Data Center.
3. Operations of Ensono LP and Ensono Data Center were and are suitable for the areas in which they are located, so long as they are operated in compliance with the Act and the Board regulations.
4. The timely submission of Annual Emissions Reports is both technically practicable and economically reasonable.
5. Respondent has subsequently complied with the Act and the Board regulations.

**IV. CONSIDERATION OF THE SECTION 42(h) FACTORS**

Section 42(h) of the Act, 415 ILCS 5/42(h) (2022), 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:

1. the duration and gravity of the violation;

2. the presence or absence of due diligence on the part of the respondent in attempting to comply with requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;
3. any economic benefits accrued by the respondent because of delay in compliance with requirements, in which case the economic benefits shall be determined by the lowest cost alternative for achieving compliance;
4. the amount of monetary penalty which will serve to deter further violations by the respondent and to otherwise air 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 preciously adjudicated violations of this Act by the respondent;
6. whether the respondent voluntarily self-disclosed, in accordance with subsection i of this Section, the non-compliance to the Agency;
7. whether the respondent has agreed to undertake a “supplemental environmental project”, which means an environmentally beneficial project that a respondent agrees to undertake in settlement of an enforcement action brought under this Act, but which the respondent is not otherwise legally required to perform; and
8. whether the respondent has successfully completed a Compliance Commitment Agreement under subsection (a) of Section 31 of this Act to remedy the violations that are the subject of the complaint.

In response to these factors, the Parties to the Stipulation state as follows:

1. Respondent failed to timely submit Annual Emission Reports (“AERs”) for calendar year 2021. The violation began on or around May 1, 2022, and Respondent resolved the violation by submitting its AERs to the Illinois EPA on August 26, 2022.
2. Respondent was diligent in attempting to come back into compliance with the Act, Board regulations, and applicable federal regulations, once the Illinois EPA notified it of its noncompliance.

3. The civil penalty takes into account any economic benefit realized by Respondent as a result of avoided or delated compliance.

4. Complainant has determined, based upon the specific facts of this matter, that a penalty of Twenty Thousand Dollars (\$20,000.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

5. Respondent has no previously adjudicated violations of the Act or Board regulations.

6. Self-disclosure is not at issue in this matter.

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

8. A Compliance Commitment Agreement was not at issue in this matter.

**V. TERMS OF SETTLEMENT**

**A. Penalty Payment**

Respondent shall pay a civil penalty in the sum of Twenty Thousand Dollars (\$20,000.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

**B. Stipulated Penalties, Interest, and Default**

1. If Respondent fails to make any payment required by this Stipulation on or before the date upon which the payment is due, 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, 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), interest shall accrue on any penalty amount owed by Respondent not paid within the time prescribed herein. Interest on unpaid

penalties shall begin 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.

3. The stipulated penalties shall be enforceable by Complainant and shall be in addition to, and shall not preclude the use of, any other remedies or sanctions arising from the failure to comply with this Stipulation.

**C. Payment Procedures**

1. All payment required by this Stipulation shall be made by certified check or money order payable to the Illinois EPA for deposit into the Environmental Protection Trust Fund (“EPTF”). Payments shall be sent by first class mail and delivered to:

Illinois Environmental Protection Agency  
Fiscal Services  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

2. The case name and case number shall appear on the face of the certified check or money order.

3. A copy of the certified check or money order and any transmittal letter shall be sent to:

Jason Clark  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General’s Office  
69 W. Washington Street, Suite 1800  
Chicago, Illinois 60602  
[Jason.Clark@ilag.gov](mailto:Jason.Clark@ilag.gov)

**D. Future Compliance**

1. Respondent shall timely submit all future Annual Emissions Reports to the Illinois EPA.

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

3. This Stipulation in no way affects the responsibilities of Respondent to comply with any other federal, state, or local laws or regulations, including but not limited to the Act and the Board Regulations.

4. 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 Respondent's payment of the \$20,000.00 penalty, its commitment to cease and desist as contained in Section V.D.4 above, completion of all activates required hereunder, and upon the Board's approval of this Stipulation, the Complainant release, waives and discharges 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 the Complainant's Complaint filed simultaneously with this Stipulation. The Complaint reserves, and this Stipulation is without

prejudice to, all rights of the State of Illinois against Respondent with respect to all other matters, including but not limited to, the following:

- a. criminal liability;
- b. liability for future violations 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 Respondent's failure to satisfy the requirements of this Stipulation.

Nothing in this Stipulation is intended as a waiver, discharge, release, or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the State of Illinois may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315, or entity other than Respondent.

**F. Enforcement and Modification of Stipulation**

Upon the entry of the Board's Order approving and accepting this Stipulation, that Order is a binding and enforceable Order of the Board and may be enforced as such through any and all available means.

**G. Execution of Stipulation**

The undersigned representatives for the Parties to the Stipulation certify that they are fully authorized by the party whom they represent to enter into the terms and conditions of this Stipulation and to legally bind them to it. This Stipulation may be executed by the parties in one or more counterparts, all of which taken together shall constitute one and the same instrument.

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

KWAME RAOUL  
Attorney General  
State of Illinois

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

JOHN J. KIM, Director  
Illinois Environmental Protection Agency

BY:   
STEPHEN J. SYLVESTER, Chief  
Environmental Bureau

BY:   
CHARLES W. GUNNARSON  
Chief Legal Counsel

DATE: 12/5/23

DATE: 12/4/23

RESPONDENT  
ENSONO LLC

BY:   
PETER BAZIL

ITS: Chief Legal Counsel

DATE: 30 November 2023