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STATE OF ILLINOIS  
*Pollution Control Board*

OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

**Lisa Madigan**  
ATTORNEY GENERAL

November 25, 2003

The Honorable Dorothy Gunn  
Illinois Pollution Control Board  
State of Illinois Center  
100 West Randolph  
Chicago, Illinois 60601

Re: ***People v. Stein Steel Mill Services, Inc., an Illinois corporation***  
**PCB No. 02-1**

Dear Clerk Gunn:

Enclosed for filing please find the original and ten copies of a NOTICE OF FILING, MOTION FOR RELIEF FROM HEARING REQUIREMENT and STIPULATION AND PROPOSAL FOR SETTLEMENT in regard to the above-captioned matter. Please file the original and return a file-stamped copy of the document to our office in the enclosed, self-addressed, stamped envelope.

Thank you for your cooperation and consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read "Delbert D. Haschemeyer".

Delbert D. Haschemeyer  
Environmental Bureau  
500 South Second Street  
Springfield, Illinois 62706  
(217) 782-9031

DDH/pp  
Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD  
MADISON COUNTY, ILLINOIS

RECEIVED  
CLERK'S OFFICE

DEC 2 2003

STATE OF ILLINOIS  
*Pollution Control Board*

PEOPLE OF THE STATE OF )  
ILLINOIS, )  
 )  
 Complainant, )  
 )  
 vs. )  
 )  
 STEIN STEEL MILL SERVICES, )  
 INC., an Illinois corporation, )  
 )  
 Respondent. )

PCB No. 02-01  
Enforcement

NOTICE OF FILING

To: Stephen G. Jeffrey  
Joseph M. Kellmeyer  
Dean L. Franklin  
Thomas Coburn, LLP  
One Firststar Plaza  
St. Louis, Missouri 63101-1693


PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois, a MOTION FOR RELIEF FROM HEARING REQUIREMENT and STIPULATION AND PROPOSAL FOR SETTLEMENT, a copy of which is attached hereto and herewith served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN  
Attorney General of the  
State of Illinois

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

BY:   
DELBERT D. HASCHEMEYER  
Assistant Attorney General  
Environmental Bureau

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: November 25, 2003

**CERTIFICATE OF SERVICE**

I hereby certify that I did on November 25, 2003, send by First Class Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instruments entitled NOTICE OF FILING, MOTION FOR RELIEF FROM HEARING REQUIREMENT and STIPULATION AND PROPOSAL FOR SETTLEMENT

To: Stephen G. Jeffrey  
Joseph M. Kellmeyer  
Dean L. Franklin  
Thomas Coburn, LLP  
One Firststar Plaza  
St. Louis, Missouri 63101-1693

and the original and ten copies by First Class Mail with postage thereon fully prepaid of the same foregoing instrument(s):

To: Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
State of Illinois Center  
Suite 11-500  
100 West Randolph  
Chicago, Illinois 60601

A copy was also sent by First Class Mail with postage thereon fully prepaid

To: Carol Sudman  
Hearing Officer  
Illinois Pollution Control Board  
1021 N. Grand Avenue East  
Springfield, Illinois 62794

  
Delbert D. Haschemeyer  
Assistant Attorney General

This filing is submitted on recycled paper.

**RECEIVED**  
CLERK'S OFFICE  
DEC 2 2003

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

STATE OF ILLINOIS  
*Pollution Control Board*

PEOPLE OF THE STATE OF )  
ILLINOIS, )  
 )  
Complainant, )  
 )  
vs. )  
 )  
STEIN STEEL MILL SERVICES, )  
INC., an Illinois corporation, )  
 )  
Respondent. )

PCB No. 02-01  
Enforcement

**MOTION FOR RELIEF FROM HEARING REQUIREMENT**

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and pursuant to Section 31(c)(2) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(c)(2) (2002), moves that the Illinois Pollution Control Board grant the parties in the above-captioned matter relief from the hearing requirement imposed by Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2002). In support of this motion, Complainant states as follows:

1. On July 2, 2001, Complainant filed a Complaint with the Board, alleging violations by the Respondent of the air pollution control requirements.
2. The parties have reached agreement on all outstanding issues in this matter.
3. This agreement is presented to the Board in a Stipulation and Proposal for Settlement, filed contemporaneously with this motion.
4. All parties agree that a hearing on the Stipulation and Proposal for Settlement is not necessary, and respectfully request relief from such a hearing as allowed by Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2002).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby requests that the Board grant this motion for relief from the hearing requirement set forth in Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2002).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS  
LISA MADIGAN  
ATTORNEY GENERAL

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

BY: 

DELBERT D. HASCHEMEYER  
Environmental Bureau  
Assistant Attorney General

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: November 25, 2003



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.* (2002).

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 and any officer, director, agent, employee or servant of Respondent, as well as the Respondent's successors and assigns. The Respondent shall not raise as a defense to any enforcement action taken pursuant to this Settlement the failure of its officers, directors, 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 ("Illinois EPA") is an administrative agency established in the executive branch of the State government by Section 4 of the Act, 415 ILCS 5/4 (2002), and is charged, *inter alia*, with the duty of enforcing the Act.

2. Respondent, Stein Steel Mill Services, Inc., is an Ohio corporation, authorized to do business in Illinois.

3. Respondent operates a facility at 2201 Edwardsville Road; Granite City, Illinois, which crushes and screens slag from National Steel Corporation.

4. On July 2, 2001, the State filed a Complaint alleging in Count I that commencing on July 29, 1997, and other dates, Respondent caused or allowed the emission of fugitive particulate matter from its roadways, the skimmer slag pit and other facilities so as to violate Section 9(a) of the Act, 415 ILCS 5/9(a) (2002), and 35 Ill. Adm. Code 201.141. In Count II, the State alleges Respondent failed to submit an acceptable minimum operating program addressing the control of particulate matter, failed to maintain written records of particulate matter control measures and failed to maintain the skimmer slag watering system as required by Respondent's Federally Enforceable State Operating Permit No. 96090078 in violation of Section 9(b) of the Act, 415 ILCS 5/9(b) and 35 Ill. Adm. Code 212.309(a) and 212.316(g)(4) and condition 8(b) of Operating Permit No. 96090078.

5. The Agency's last inspections of Respondent's facility preceding the execution of this Stipulation and Proposal for Settlement were August 21 and September 4, 2002. Although Respondent has a fugitive particulate matter control program, the program was deficient in that it did not have a map to scale that identifies all normal traffic patterns and all active storage piles. Implementation of the program was deficient in that one roadway was not being sprayed on a regular basis, the roadway suppression logs were not showing the frequency of water spraying, metallic fines had not been destocked to storage on a daily basis, and the water truck had not been maintained.

6. Respondent is in the process of acting in accordance with the provisions of the Stipulation and Proposal for Settlement to resolve the circumstances leading to the alleged violations.



V.

**IMPACT ON THE PUBLIC RESULTING FROM NON-COMPLIANCE**

Section 33(c) of the Act, 415 ILCS 5/33(c) (2002), provides:

- c. 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:
  - i. the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
  - ii. the social and economic value of the pollution source;
  - iii. 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;
  - iv. the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
  - v. any subsequent compliance.

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

1. Complainant contends that the injury to, or interference with, the protection of the health, general welfare, and physical property of the People would be characterized as a potential for air pollution and the degree of injury would be dependent upon the extent of the pollution and the degree of exposure to that pollution.
2. The parties agree that Respondent's facility is of social and economic benefit.
3. Respondent's facility is located adjacent to National Steel's manufacturing facility and other industrial facilities in an area which is primarily an industrial area.
4. The parties agree that complying with the Act and regulations is technically practicable and economically reasonable.

5. Respondent is in the process of implementing measures in order to operate in compliance with the Act and the Board's Air Pollution Regulations.

## VI.

### CONSIDERATION OF SECTION 42(H) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h) (2002), provides:

- h. In determining the appropriate civil penalty to be imposed under subdivisions (a), (b)(1), (b)(2), (b)(3), or (b)(5) of 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 the 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 alleged violations were distinct in nature and occurred between July 29, 1997, and the present.
2. In response to notices of noncompliance issued by the Illinois EPA, the Respondent is working with the Illinois EPA to resolve its operational problems in order to comply with the Act.

3. The economic benefit of Respondent's alleged noncompliance is the savings, if any, realized by not designing and implementing adequate fugitive particulate control and preventative maintenance programs.

4. Complainant has determined, in this instance, that a penalty of fifteen thousand dollars (\$15,000.00) will serve to deter further violations and aid in future voluntary enforcement of the Act and applicable regulations.

5. The Complainant is unaware of any previously adjudicated violations of the Act by the Respondent.

## VII.

### TERMS OF SETTLEMENT

A. Respondent neither admits nor denies violating Sections 9(a) and (b) of the Act, 415 ILCS 5/9(a) and (b) (2002), 35 Ill. Adm. Code 201.141, 212.309(a), 212.316(a)(4) and Condition 8(b) of Respondent's Operating Permit No. 73050009;

B. The Respondent shall pay a penalty of fifteen thousand dollars (\$15,000.00) into the Illinois Environmental Protection Trust 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 Environmental Protection Trust Fund, and shall be sent by first class mail to:

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

Respondent's Federal Employer Identification Number ("FEIN") shall be written upon the certified check or money order. Respondent's FEIN is: 34-1320778

A copy of the payment transmittal and check shall be simultaneously submitted to:

Office of the Attorney General  
Environmental Bureau  
500 South Second Street  
Springfield, Illinois 62706

C. a. Respondent shall, within thirty (30) days of a Pollution Control Board Order accepting this Stipulation and Proposal, submit a comprehensive fugitive particulate control program which meets the requirements of 35 Ill. Adm. Code 212.309 and is consistent with the information submitted in the application for the CAAPP permit to the Agency by sending to:

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

and

Illinois Environmental Protection Agency  
c/o John Justice  
2009 Mall Street  
Collinsville, IL 62234

b. The Agency shall, within thirty (30) days, review the program submitted by Respondent pursuant to subparagraph (a) and advise the Respondent in writing whether the program is acceptable; or if the program is deficient, the Agency shall advise the Respondent of the deficiency or deficiencies identified.

c. If the Agency, pursuant to subparagraph (b), identifies any deficiencies in the fugitive particulate control program submitted pursuant to subparagraph (a), the Respondent shall resubmit the program with the required corrections within thirty (30) days of the date of receipt of the Agency's notice of deficiency to:

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

and

Illinois Environmental Protection Agency  
c/o John Justice  
2009 Mall Street  
Collinsville, IL 62234

d. Respondent shall amend, as necessary, its fugitive particulate control program so that it is current as required by 35 Ill. Adm. Code 212.312.

e. The Respondent shall keep written records and submit reports as required by 35 Ill. Adm. Code 212.316(g).

D. Respondent has filed a collateral proceeding, a permit appeal, PCB No. 02-211 in which Respondent is appealing IEPA's determination of incompleteness regarding an operating permit application as part and parcel to the agreement to settle this case. Respondent has submitted an application to the Agency for a Clean Air Act Permit Program ("CAAPP permit"). Further, as consideration for the agreements contained herein, the Agency agrees to process said permit in a reasonable manner considering the regulatory limitations and the resource limitations of the agency. In consideration for the Agency's agreement as set forth herein, Respondent agrees to dismiss its Permit Appeal PCB No. 02-211 within 30 days of the entry of a Pollution Control Board Order accepting this Stipulation and Settlement. Respondent further agrees to waive the Board's decision deadline in PCB No. 02-211 until 90 days after the Board's decision on this Stipulation and Proposal for Settlement.

#### VIII.

#### **COMPLIANCE WITH OTHER LAWS AND REGULATIONS**

This Stipulation and Proposal for Settlement in no way affects the responsibility of Respondent to comply with any federal, state, or local regulations, including but not limited to the Act, 415 ILCS 5/1 *et seq.* (2002), 40 C.F.R. Part 61 (1998), and the Board's Rules and Regulations, 35 Ill. Adm. Code, Subtitles A through H.

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

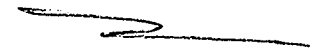
Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,

LISA MADIGAN,  
Attorney General  
State of Illinois,

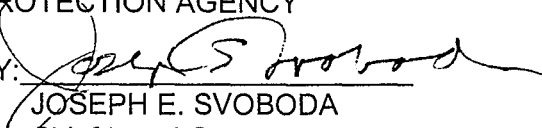
MATTHEW J. DUNN, Chief  
Environmental Enforcement/Asbestos  
Litigation Division

Dated: 11/25/03

BY:   
THOMAS DAVIS, Chief  
Environmental Bureau  
Assistant Attorney General

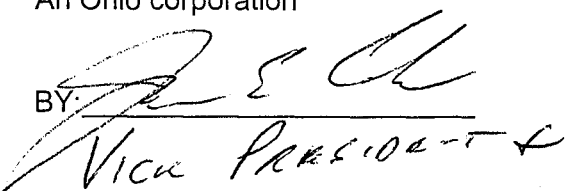
ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

Dated: 11/3/03

BY:   
JOSEPH E. SVOBODA  
Chief Legal Counsel

STEIN STEEL MILL SERVICES, INC.,  
An Ohio corporation

Dated: 11/12/03

BY:   
Vice President &  
General Counsel