

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 04-193
)	
FELLOWES MANUFACTURING)	(Enforcement - Air)
COMPANY, a/k/a FELLOWES, INC.,)	
an Illinois corporation,)	
)	
Respondent.)	

NOTICE OF FILING

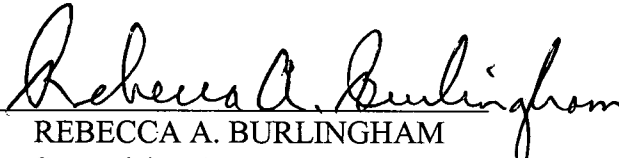
TO: Susan V. Harris
Sidley Austin LLP
One South Dearborn Street
Chicago, IL 60603

(VIA ELECTRONIC FILING)

PLEASE TAKE NOTICE that on the 8th June, 2006, 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

LISA MADIGAN
Attorney General of the
State of Illinois

By: 
 REBECCA A. BURLINGHAM
 Supervising Attorney
 Environmental Bureau
 188 W. Randolph St., 20th Fl.
 Chicago, Illinois 60601
 (312) 814-3776

Date: June 8, 2006

THIS FILING IS SUBMITTED ON RECYCLED PAPER

CERTIFICATE OF SERVICE

I, REBECCA A. BURLINGHAM, an Assistant Attorney General in this case, do certify that I caused to be served this 8th day of June, 2006, the foregoing Stipulation and Proposal for Settlement, Motion to Request Relief From Hearing Requirement and Notice of Filing upon the person listed on said Notice by depositing same in an envelope, first class postage prepaid, with the United States Postal Service at 188 West Randolph Street, Chicago, Illinois, at or before the hour of 5:00 p.m.


REBECCA A. BURLINGHAM

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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**MOTION TO REQUEST RELIEF
FROM HEARING REQUIREMENT**

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

1. On May 6, 2004, a Complaint was filed with the Pollution Control Board ("Board") in this matter. On June 8, 2006, a Stipulation and Proposal for Settlement was filed with the Board.
2. Section 31(c)(2) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(c)(2), effective August 1, 1996, 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. Section 31(c)(2) provides:

Notwithstanding the provisions of subdivision (1) of this subsection (c), whenever a complaint has been filed on behalf of the Agency or by the People of the State of Illinois, the parties may file with the Board a stipulation and proposal for settlement accompanied

by a request for relief from the requirement of a hearing pursuant to subdivision (1). Unless the Board, in its discretion, concludes that a hearing will be held, the Board shall cause notice of the stipulation, proposal and request for relief to be published and sent in the same manner as is required for hearing pursuant to subdivision (1) of this subsection. The notice shall include a statement that any person may file a written demand for hearing within 21 days after receiving the notice. If any person files a timely written demand for hearing, the Board shall deny the request for relief from a hearing and shall hold a hearing in accordance with the provisions of subdivision (1).

3. No hearing is currently scheduled in the instant case.
4. The Complainant requests the relief conferred by Section 31(c)(2) of the Act.

WHEREFORE, the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, requests relief from the requirement of a hearing pursuant to 415 ILCS 5/31(c)(2), effective August 1, 1996.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS
LISA MADIGAN
Attorney General of the
State of Illinois

By: 

REBECCA A. BURLINGHAM
Supervising Attorney

Environmental Bureau
188 W. Randolph St., 20th Fl.
Chicago, Illinois 60601
(312) 814-3776

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
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Complainant,)	
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v.)	
)	PCB No. 04-193
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FELLOWES MANUFACTURING COMPANY,)	(Enforcement - Air)
a/k/a FELLOWES, INC., an Illinois Corporation,)	
)	
Respondent.)	
)	
)	

STIPULATION AND PROPOSAL FOR SETTLEMENT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, the Illinois Environmental Protection Agency ("Illinois EPA"), and FELLOWES MANUFACTURING COMPANY, a/k/a FELLOWES, INC. ("Respondent"), 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 parties agree that the statement of facts contained herein represents a fair summary of the evidence and testimony which would be introduced by the Complainant if a 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 any other proceeding regarding the claims asserted in the Complaint except as otherwise provided herein. If the Board approves and enters this Stipulation, Respondent agrees to be bound by the Stipulation and Board Order and not to contest

their validity in any subsequent proceeding to implement or enforce their terms.

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"), 415 ILCS 5/1 *et seq.* (2004).

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 to legally bind them to it.

III. STATEMENT OF FACTS

A. Parties

1. On May 6, 2004, a Complaint was filed on behalf of the People of the State of Illinois by Lisa Madigan, Attorney General of the State of Illinois, on her own motion and upon the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31(2004), against the Respondent.

2. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2004).

3. At all times relevant to the Complaint, Respondent was and is an Illinois corporation that is authorized to transact business in the State of Illinois.

B. Site Description

1. At all times relevant to the Complaint, Respondent owned and operated a manufacturing facility located at 1789 Norwood Avenue, Itasca, DuPage County, Illinois ("Site" or "Facility").

2. Fellowes began operating its facility prior to 1990, or on a date better known to it, and from that time, operations at the facility included certain injection molding machines and two flexographic printing lines. Beginning in 1995, Fellowes operated one additional flexographic printing line, and beginning in 1996 added another additional flexographic printing line.

3. At all times relevant to this Complaint, Fellowes engaged in the manufacture, assembly, and packaging of certain office supplies, as well as the manufacture of corrugated boxes with or without printed images, at the Site.

4. Fellowes' operation of its injection molding machines and its flexographic printing lines results in the emission of volatile organic materials (VOMs), also known as volatile organic compounds (VOCs).

5. Respondent's operation of its facility is subject to certain provisions of the Act and certain rules and regulations promulgated by the Board and the Illinois EPA.

C. Allegations of Non-Compliance

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

- Count I: Failure to Obtain a Construction Permit, in violation of Section 9(b) of the Act, 415 ILCS 5/9(b) (2004), and 35 Ill. Adm. Code 201.142.
- Count II: Failure to Obtain a State Operating Permit, in violation of Section 9(b) of the Act, 415 ILCS 5/9(b) (2004), and 35 Ill. Adm. Code 201.143.
- Count III: Failure to Submit a Clean Air Act Permit Program Application ("CAAPP"), in violation of Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b) (2004).
- Count IV: Construction of a Major Stationary Source in Violation of New Source Review, in violation of Section 9(a) of the Act, 415 ILCS 5/9(a) (2004), and 35 Ill. Adm. Code 203.201.
- Count V: Failure to Submit Annual Emissions Reports, in violation of Section 9(a) of the Act, 415 ILCS 5/9(a) (2004), 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).

D. Admission of Violations

The Respondent denies the violations alleged in the Complaint filed in this matter and referenced herein.

E. Compliance Activities to Date

Since being made aware of the alleged violations, Fellowes has provided the Illinois EPA with all requested information and promptly submitted a CAAPP application, seeking a federally-enforceable state operating permit.

G. Value of Settlement and Resulting Benefits

The environmental benefit of the settlement to both Complainant and Respondent includes

ensuring the Respondent in the future complies with the Act and Federal Clean Air Act regulations as promulgated under 42 USC 7401. Complainant asserts that the civil penalty assessed against the Respondent will aid in the deterrence of future violations by Respondent and similarly situated entities, from their failure to follow the Act and regulations as alleged in the Complaint.

IV. APPLICABILITY

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

V. COMPLIANCE WITH OTHER LAWS AND REGULATIONS

This Stipulation in no way affects the responsibilities of the Respondent to comply with any other applicable federal, state or local laws or regulations including, but not limited to, the Act and the Board regulations, 35 Ill. Adm. Code, Subtitles A through H.

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

Section 33(c) of the Act, 415 ILCS 5/33(c)(2004), 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 Complainant states the following:

1. Human health and the environment were minimally threatened. The Illinois EPA's information gathering responsibilities were hindered by the Respondent's violations.
2. The Facility does have a social and economic benefit.
3. Operation of the Facility is suitable for the area in which it is located.
4. Obtaining the proper permits prior to construction at the Facility and compliance with the terms and conditions of the permits and the provisions of the regulations cited in the Complaint is both technically practicable and economically reasonable.
5. Respondent has subsequently complied with the Act and the Board Regulations.

VII. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h)(2004), provides as follows:

In determining the appropriate civil penalty to be imposed under . . . this Section,

the Board is authorized to consider any matters of record in mitigation or aggravation of penalty, including but not limited to the following factors:

1. the duration and gravity of the violation;
2. the presence or absence of due diligence on the part of the respondent in attempting to comply with requirements of this Act and regulations thereunder or to secure relief 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 aid in enhancing voluntary compliance with this Act by the respondent and other persons similarly subject to the Act;
5. the number, proximity in time, and gravity of previously adjudicated violations of this Act by the respondent;
6. whether the respondent voluntarily self-disclosed, in accordance with subsection i of this Section, the non-compliance to the Agency; and
7. whether the respondent has agreed to undertake a "supplemental environmental project," which means an environmentally beneficial project that a respondent agrees to undertake in settlement of an enforcement action brought under this Act, but which the respondent is not otherwise legally required to perform.

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

1. The Complainant alleges the following violations of the Act and Board regulations. The Respondent failed to obtain a construction permit, failed to obtain a state operating permit, failed to submit a CAAPP application, constructed a major stationary source in violation of new source review regulations, and failed to submit annual emission reports. The failure to obtain the construction and state operating permits began prior to 1990 on a date better

known to Respondent. The violation of the CAAPP application requirement began in September 1995, and continued until July 2002. The failure to obtain new source review occurred sometime during 1995, on dates better know to Respondent. Respondent failed to submit annual emission reports from 1992 until October 14, 2002. The Illinois EPA's information gathering responsibilities were hindered by the Respondent's failure to ensure that the proper Illinois EPA permits and recordkeeping obligations were met.

2. Respondent was diligent in attempting to come back into compliance with the Act, applicable Board regulations and applicable federal regulations, once the Illinois EPA notified it of its alleged noncompliance.

3. The Complainant has determined that the economic benefit to Fellowes is at least Ten Thousand Seven Hundred and Fifty Dollars, \$10,750, reflecting avoided air pollution site fees for calendar years 1986 through 2001. These fees will be paid and deposited into the Illinois Environmental Inspection and Permit Fund.

4. Complainant has determined, based upon the specific facts of this matter that a penalty of One Hundred and Eighty Nine Thousand Two Hundred and Fifty Dollars (\$189,250.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

5. To Complainant's knowledge, Respondent has no previously adjudicated violations of the Act.

6. Respondent did not self disclose the violations alleged in the Complaint to the Illinois EPA.

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

project.

VIII. TERMS OF SETTLEMENT

A. Penalty Payment

1. The Respondent shall pay a civil penalty in the sum of One Hundred and Eighty Nine Thousand Two Hundred and Fifty Dollars (\$189,250.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation. The Respondent stipulates that payment has been tendered to Respondent's attorney of record in this matter in a form acceptable to that attorney. Further, Respondent stipulates that said attorney shall make the penalty payment on behalf of Respondent, within thirty (30) days from the date the Board adopts and accepts this Stipulation, in a manner prescribed below. The penalty described in this Stipulation shall be paid by certified check, money order or company check payable to the Illinois EPA, designated to the Illinois Environmental Protection Trust Fund and submitted to:

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

The name and number of the case and Respondent's Federal Employer Identification Number ("FEIN") shall appear on the check. A copy of the certified check, money order or company check and any transmittal letter shall be sent to:

Rebecca A. Burlingham
Assistant Attorney General
Environmental Bureau
188 West Randolph Street, 20th Floor
Chicago, Illinois 60601

Ms. Maureen Wozniak
Assistant Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

2. The Respondent shall pay the amount of their economic benefit resulting from avoided air permit fees in the sum of Ten Thousand Seven Hundred and Fifty Dollars (\$10,750.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation. The Respondent stipulates that payment has been tendered to Respondent's attorney of record in this matter in a form acceptable to that attorney. Further, Respondent stipulates that said attorney shall make the economic benefit payment on behalf of Respondent, within thirty (30) days from the date the Board adopts and accepts this Stipulation, in a manner prescribed below. The economic benefit payment described in this paragraph shall be paid by certified check, money order or company check payable to the Illinois EPA, designated to the Illinois Environmental Inspection and Permit Fund and submitted to:

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

The name and number of the case and Respondent's Federal Employer Identification Number ("FEIN") shall appear on the check. A copy of the certified check, money order or company check and any transmittal letter shall be sent to:

Rebecca A. Burlingham
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188 West Randolph Street, 20th Floor
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Ms. Maureen Wozniak
Assistant Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

3. Pursuant to Section 42(g) of the Act, 415 ILCS 5/42(g) (2004), interest shall accrue on any payment not paid within the time period prescribed above at the maximum rate allowable under Section 1003(a) of the Illinois Income Tax Act, 35 ILCS 5/1003 (2002). Interest on any unpaid payment shall begin to accrue from the date the payment is due and continue to accrue until the date payment is received. When partial payment(s) are made, such partial payment shall be first applied to any interest on unpaid payment then due and owing. All interest on payment owed shall be paid by certified check, money order or company check payable to the Illinois EPA, designated to the Illinois Environmental Protection Trust Fund and delivered to the address and in the manner described above.

4. For purposes of payment and collection, Respondent may be reached at the following address:

Mr. Steven L. Carson
Fellowes, Inc.
1789 Norwood Avenue
Itasca, Illinois 60143-1095

5. For purposes of payment and collection, Respondent's Attorney may be reached at the following address:

Ms. Susan V. Harris
Sidley Austin LLP
One South Dearborn Street
Chicago, Illinois 60603

6. In the event of default of this Section VIII.A, the Complainant shall be entitled to all available relief including, but not limited to, reasonable costs of collection and reasonable attorney's fees.

B. Future Use

Notwithstanding any other language in this Stipulation to the contrary, and in consideration of the mutual promises and conditions contained in this Stipulation, including the Release from Liability contained in Section VIII.D, below, the Respondent hereby agrees that this Stipulation may be used against the Respondent in any subsequent enforcement action or permit proceeding as proof of a past adjudication of violation of the Act and the Board Regulations promulgated thereunder for all violations alleged in the Complaint in this matter, for purposes of Section 39(a) and (i) and/or 42(h) of the Act, 415 ILCS 5/39(a) and(i) and/or 5/42(h)(2004). Further, Respondent agrees to waive any rights to contest, in any subsequent enforcement action or permit proceeding, any allegations that these alleged violations were adjudicated.

C. Cease and Desist

The Respondent shall cease and desist from future violations of the Act and Board Regulations that were the subject matter of the Complaint as outlined in Section III.C ("Allegations of Non-Compliance") and Section III.D ("Violation Notice") of this Stipulation.

D. Release from Liability

In consideration of the Respondent's payment of the \$189,250.00 civil penalty, \$10,750 in avoided air permit fees and any specified costs and accrued interest, completion of all activities required hereunder, to Cease and Desist as contained in Section VIII.C and upon the Pollution Control Board's acceptance and approval of the terms of this Stipulation and Proposal for Settlement, the Complainant releases, waives and discharges the Respondent and any officer, director, agent or employer of the Respondent, as well as any successors or assigns of the Respondent from any further liability or penalties for violations of the Act and Board Regulations that were the subject matter of the Complaint herein. The release set forth above does not extend to any matters other than those expressly specified in Complainant's Complaint filed on May 6, 2004. The Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against the Respondent with respect to all other matters, including but not limited to, the following:

- a. criminal liability;
- b. liability for future violation of state, federal, local, and common laws and/or regulations;
- c. liability for natural resources damage arising out of the alleged violations; and
- d. liability or claims based on the Respondent's failure to satisfy the requirements of this Stipulation.

Nothing in this Stipulation is intended as a waiver, discharge, release, or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in

law or in equity, which the State of Illinois or the Illinois EPA may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315, or entity other than the Respondent its officers, directors, agents or employees as well as any successors or assigns of the Respondent.

E. Right of Entry

In addition to any other authority, the Illinois EPA, its employees and representatives, and the Attorney General, her agents and representatives, shall have the right of entry into and upon the Respondent's facility which is the subject of this Stipulation, at all reasonable times for the purposes of carrying out inspections. In conducting such inspections, the Illinois EPA, its employees and representatives, and the Attorney General, her employees and representatives may take photographs, samples, and collect information, as they deem necessary, provided however, that any information claimed as confidential by Fellowes shall be maintained as confidential by the Illinois EPA and the Attorney General's Office to the extent required by applicable law.

F. Correspondence, Reports and Other Documents

Any and all correspondence, reports and any other documents required under this Stipulation, except for payments pursuant to Sections VIII.A ("Penalty Payment") of this Stipulation shall be submitted as follows:

As to the Complainant

Rebecca Burlingham
Assistant Attorney General
Environmental Bureau
188 West Randolph Street, 20th Floor
Chicago, Illinois 60601

Ms. Maureen Wozniak
Assistant Counsel
Illinois EPA
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

Manager
Compliance and Enforcement Section
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

As to the Respondent

Mr. Steven L. Carson
Fellowes, Inc.
1789 Norwood Avenue
Itasca, Illinois 60143-1095

Ms. Susan V. Harris
Sidley Austin LLP
One South Dearborn Street
Chicago, Illinois 60603

G. Modification of Stipulation

The parties may, by mutual written consent, agree to extend any compliance dates or modify the terms of this Stipulation. A request for any modification shall be made in writing and submitted to the contact persons identified in Section VIII.F. Any such request shall be made by separate document, and shall not be submitted within any other report or submittal required by this Stipulation. Any such agreed modification shall be in writing, signed by authorized representatives of each party, and then accompany a joint motion to the Illinois Pollution Control Board seeking a modification of the prior order approving and accepting the Stipulation to

approve and accept the Stipulation as amended.

H. Enforcement of Board Order

1. Upon the entry of the Board's Order approving and accepting this Stipulation and Proposal for Settlement, that Order is a binding and enforceable order of the Illinois Pollution Control Board and may be enforced as such through any and all available means.

2. Respondent agrees that notice of any subsequent proceeding to enforce the Board Order approving and accepting this Stipulation and Proposal for Settlement may be made by mail and waives any requirement of service of process.

3. The parties agree that, if the Board does not approve and accept this Stipulation and Proposal for Settlement, then neither party is bound by the terms herein.

4. It is the intent of the Complainant and Respondent that the provisions of this Stipulation and Proposal for Settlement and any Board Order accepting and approving such shall be severable, and should any provision be declared by a court of competent jurisdiction to be inconsistent with state or federal law, and therefore unenforceable, the remaining clauses shall remain in full force and effect.

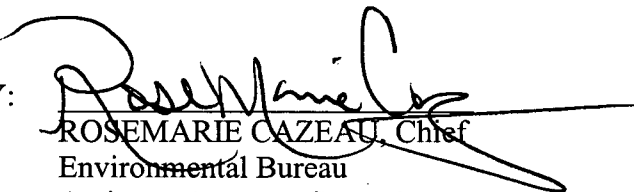
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WHEREFORE, Complainant and Respondent request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

PEOPLE OF THE STATE OF ILLINOIS,

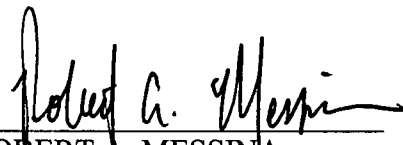
LISA MADIGAN
Attorney General
State of Illinois

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

BY: 
ROSEMARIE CAZEAU, Chief
Environmental Bureau
Assistant Attorney General

DATE: 5/11/06

ILLINOIS ENVIRONMENTAL PROTECTION
AGENCY

BY: 
ROBERT A. MESSINA
Chief Legal Counsel

DATE: 5/3/06

FELLOWES MANUFACTURING COMPANY,
a/k/a FELLOWES, INC.

BY: 
JOSEPH T. KOCH
Executive Vice President and CFO

DATE: 5-26-06