

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
)
Complainant,)
)
v.)
)
FIRST ROCKFORD GROUP, INC.,)
)
an Illinois corporation, VILLAGE OF)
CHERRY VALLEY, an Illinois municipal)
corporation, HERITAGE ENGINEERING,)
LTD., an Illinois corporation, and)
SCHLICHTING & SONS EXCAVATING,)
INC., an Illinois corporation,)
)
Respondents.)

ORIGINAL

RECEIVED
CLERK'S OFFICE
MAY 16 2007
STATE OF ILLINOIS
Pollution Control Board
PCB 00-005
Consolidated

NOTICE OF FILING

TO: See Attached Service List

PLEASE TAKE NOTICE that on the 16th day of May, 2007, I filed with the Clerk of the Illinois Pollution Control Board a Stipulation and Proposal for Settlement and a Motion to Request Relief From Hearing Requirement, copies of which are attached hereto and are hereby served upon you.

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

BY: Nancy J. Tikalsky
NANCY J. TIKALSKY
Assistant Attorney General
Environmental Bureau North
69 West Washington St., Suite 1800
Chicago, Illinois 60602
312-814-8567

DATE: February 26, 2007

THIS FILING IS SUBMITTED ON RECYCLED PAPER

SERVICE LIST

Mr. Bradley Halloran
Chief Hearing Officer
Illinois Pollution Control Board
100 West Randolph Street, 11th Floor
Chicago, IL 60601

Mr. Charles F. Helston
Hinshaw & Culbertson LLP
100 Park Ave.
Rockford, IL 61105

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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MAY 16 2007

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS

ORIGINAL

Complainant,

v.

FIRST ROCKFORD GROUP, INC.,
an Illinois corporation, VILLAGE OF
CHERRY VALLEY, an Illinois municipal
corporation, HERITAGE ENGINEERING,
LTD., an Illinois corporation, and
SCHLICHTING & SONS EXCAVATING,
INC., an Illinois corporation,

Respondents.

PCB 05-215

PCB 06-103

Consolidated

**STIPULATION AND PROPOSAL FOR SETTLEMENT WITH
FIRST ROCKFORD GROUP, INC.**

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 First Rockford Group, Inc. ("Respondent" or "First Rockford"), 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 parties 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 June 15, 2005, Complaint number PCB 05-215 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 First Rockford.

2. On December 15, 2005, Complaint number PCB 06-103 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 First Rockford.

3. First Rockford is the parent company of Spring Creek Meadows LLC, (“Spring Creek”), a corporation in which First Rockford holds an interest. Spring Creek was created in part to develop the residential subdivisions of Winchester Hills, Wexford Place, and Wyndridge in Machesney Park, Winnebago County which are the subject matter of this Stipulation and Proposal for Settlement.

4. On February 2, 2006, case numbers PCB 05-215 and PCB 06-103 were consolidated by the Board.

5. 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).

6. 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 for Complaint Number PCB 05-215

1. At all times relevant to the PCB 05-215 Complaint, the development project at the Golf Hill subdivision included the creation of grading plans, potable water and sewer installation plans, and the completion of necessary permit application forms for development work at the site.

2. Respondent First Rockford prepared a construction permit application for potable water lines at the site. On September 24, 2003, Respondents First Rockford Group and Heritage Engineering signed the permit application. On October 7, 2003, Respondent Cherry Valley signed the permit application. Shortly thereafter, the permit application was submitted to the Illinois EPA.

3. On October 28, 2003, prior to the issuance of a construction permit for the project by the Illinois EPA, Respondent First Rockford directed, commenced or allowed the construction of the potable water line at the development site.

4. On October 29, 30, 31, November 3, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 17, 2003, Respondent Cherry Valley inspected the on-going construction of the water line.

5. Construction of the potable water supply line had occurred prior to the issuance of a construction permit for the project by the Illinois EPA.

6. On November 18, 2003, a potable water line construction permit was issued for the site by the Illinois EPA.

C. Site Description for Complaint number PCB 06-103

1. At all times relevant to the Complaint number 06-103, from about August 15, 2003, through at least May 31, 2005, Respondent First Rockford constructed streets, developed residential homes and constructed storm water sewer inlets at the three development sites without proper erosion control devices to prevent storm water runoff.

2. The development sites described in Section III. B. and C. are collectively referred to herein as the "Sites".

D. Allegations of Non-Compliance for Complaint PCB 05-215:

Complainant alleges in the Complaint for PCB 05-215 that the Respondent has violated the following provisions of the Act and Board regulations:

Count I: Construction of Potable Water Lines Without a Permit
Violation of Section 15 of the Act, 415 ILCS 5/15 (2002), and 35 Ill. Adm. Code 602.101(a).

E. Allegations of Non-Compliance for Complaint PCB 06-103:

Complainant alleges in the Complaint for PCB 06-103 that the Respondent has violated the following provisions of the Act and Board regulations:

Section I – Winchester Hills Subdivision

- Count I: Water Pollution
Violation of Section 12(a) of the Act, 415 ILCS 5/12(a)(2004);
- Count II: Creating a Water Pollution Hazard
Violation of Section 12(d) of the Act, 415 ILCS 5/12(d)(2004);
- Count III: Failure to Obtain an NPDES Storm Water Permit Prior to Construction
Violation of Sections 12(f) of the Act, 415 ILCS 5/12(f)(2004) and Section 309.102(a) of the Board Construction Permit Regulations, 35 Ill. Adm. Code 309.102(a);

Section II – Wexford Place Subdivision

- Count IV: Water Pollution
Violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2004);
- Count V: Creating a Water Pollution Hazard
Violation of Section 12(d) of the Act, 415 ILCS 5/12(d)(2004);
- Count VI: Violation of NPDES Permit Requirements
Violation of Sections 12(f) of the Act, 415 ILCS 5/12(f)(2004) and Section 309.102(a) of the Board Construction Permit Regulations, 35 Ill. Adm. Code 309.102(a);

Section III – Wyndridge Subdivision

- Count VII: Water Pollution
Violation of Section 12(a) of the Act, 415 ILCS 5/12(a)(2004);
- Count VIII: Creating a Water Pollution Hazard
Violation of Section 12(d) of the Act, 415 ILCS 5/12(d)(2004);
- Count IX: Violation of NPDES Permit Requirements
Violation of Sections 12(f) of the Act, 415 ILCS 5/12(f)(2004) and Section 309.102(a) of the Board Construction Permit Regulations, 35 Ill. Adm. Code 309.102(a);

F. Admission of Violations

The Respondent admits to the violations set forth in Board Complaint PCB 05-215, but with respect to PCB 06-103, neither admits nor denies the same referenced within Section III.D and III.E herein.

G. Compliance Activities to Date

On November 18, 2003, a potable water line construction permit was issued for Golf Hill subdivision by the Illinois EPA that was the subject matter of the PCB 05-215 Complaint.

Improved erosion control devices have been implemented at the three subdivisions; Winchester Hills, Wexford Place and Wyndridge, in Machesney Park, Illinois, that were the subject matter of the PCB 06-103 Complaint.

H. Value of Settlement and Resulting Benefits for PCB 05-215

A review of the public water supply permit application prior to the construction of potable water supplies and issuance of construction permits is the primary and most effective means by which the Illinois EPA can ensure the protection of Illinois residents from unsafe drinking water. While the proper Illinois EPA permits are now in place for the Golf Hill subdivision, the Respondent First Rockford's payment of a civil penalty will reinforce the importance of this permit process and encourage future compliance with the Act, as well as the Board's Water Pollution Regulations.

I. Value of Settlement and Resulting Benefits for PCB 06-103

Proper erosion control devices are of fundamental importance to prevent storm water runoff. Erosion control devices aid in the prevention of water pollution and water pollution hazards. As authorized by the Clean Water Act, 33 U.S.C. §1342, and as implemented in Illinois pursuant to Section 12(f) of the Act, the NPDES permit program controls water pollution by regulating point sources that discharge pollutants into waters of the State of Illinois. Obtaining NPDES permits and conforming to the NPDES permit provisions is important to the maintenance of clean water and water quality. While proper erosion control devices are now in place at the subdivisions which were the subject matter of the PCB 06-103 Complaint, the Respondent First Rockford's payment of a civil penalty will reinforce the importance of this permit process and encourage future compliance with the Act, as well as the Board's Water Pollution Regulations.

IV. APPLICABILITY

A. 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 subsidiaries, 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, subsidiaries, successors or assigns to take such action as shall be required to comply with the provisions of this Stipulation.

B. Respondent shall continue to be bound by and remain liable for performance of all obligations under this Stipulation in all areas of the development property that remain under the

ownership of Respondent and covered under any existing NPDES stormwater permit for construction site activity.

V. COMPLIANCE WITH OTHER LAWS AND REGULATIONS

This Stipulation in no way affects the responsibilities of the Respondent to comply with any other 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 parties state the following:

1. Human health and the environment were threatened and the Illinois EPA's information gathering and regulatory oversight responsibilities were hindered by the Respondent First Rockford's failure to ensure that the proper construction permits were obtained from the

Illinois EPA prior to the construction of the Golf Hill subdivision's potable water lines and by, and surface water quality in and around the Machesney Park was threatened as a result of Respondent First Rockford's failure to complete proper erosion control procedures.

2. The Sites provide a social and economic benefit. The Sites will increase the local tax base, provide needed residential housing in the area, and provide additional income to the local economy.

3. The development projects at the Golf Hill subdivision, in Cherry Valley and the Winchester Hills, Wexford Place and Wyndridge subdivisions in Machesney Park are suitable for residential development.

4. Obtaining a permit prior to construction at the Golf Hill subdivision and compliance with its terms is both technically practicable and economically reasonable. Respondent First Rockford had signed and submitted the permit application to the Illinois EPA, but had directed, commenced and/or allowed construction to begin at the site prior to the issuance of a permit.

Following proper erosion control practices at the Winchester Hills, Wexford Place and Wyndridge subdivisions in Machesney Park was also both technically practicable and economically reasonable.

5. Respondent has subsequently complied with the Act and the Board Regulations. However, the acquisition of an Illinois EPA construction permit for the Golf Hill subdivision, the acquisition of an NPDES permit for Winchester Hills, and compliance with the NPDES permit at the Wexford Place and Wyndridge subdivisions does not remedy Respondent's noncompliance during the period when development occurred at the Sites without a permit or in violation of a permit, and in violation of the Act and 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 Respondent First Rockford failed to obtain a construction permit for the potable water lines at the Cherry Valley development site prior to beginning construction of those lines. The violations began on or around October 28, 2003, or a date better known to the Respondent First Rockford, and were resolved on November 18, 2003.

2. From August 15, 2003, through at least May 31, 2005, the State alleges that the Respondent First Rockford failed to complete proper erosion control procedures at the Winchester Hills, Wexford Place and Wyndridge subdivisions in Machesney Park. As of the date of filing of this Stipulation, First Rockford has completed proper erosion control procedures at the Machesney Park subdivisions.

3. Respondent was diligent in attempting to return to compliance with the Act, Board regulations and applicable federal regulations, once the Illinois EPA notified it of its noncompliance.

4. The civil penalty obtained herein exceeds the economic benefit that Respondent may have accrued as a result of its non-compliance.

5. Complainant has determined, based upon the specific facts of this matter that a civil penalty of Thirty-Five Thousand Dollars (\$35,000.00) and performance of a Supplemental Environmental Project ("SEP") in the amount of Twenty Thousand Dollars (\$20,000.00) will together serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

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

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

8. The settlement of this matter includes a SEP. The Respondent will contribute \$20,000.00 to the Rockford School District #205 for its use in retrofitting school bus emission systems. The SEP includes installation of particulate filters on school buses to reduce nitrogen oxide emissions.

VIII. TERMS OF SETTLEMENT

A. Penalty Payment

1. The Respondent shall pay a civil penalty in the sum of Thirty-Five Thousand Dollars (\$35,000.00) and submit a sum of Twenty Thousand Dollars (\$20,000.00) as detailed below, to be provided as a SEP to the school bus program in Winnebago County within thirty (30) days from the date the Board adopts and accepts this Stipulation. The Respondent stipulates that the penalty 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 has been directed to 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 \$35,000.00 penalty described in this Stipulation shall be paid by certified check or money order 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, IL 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 or money order and any transmittal letter shall be sent to:

Nancy J. Tikalsky
Assistant Attorney General
Environmental Bureau
188 W. Randolph St., 20th Floor
Chicago, Illinois 60601

2. 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 (2004). 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 or money order, payable to the Illinois EPA, designated to the Illinois Environmental Protection Trust Fund and delivered to the address and in the manner described above.

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

Trish Gibbs
First Rockford Group, Inc.
Assistant General Counsel
6801 Spring Creek Road
Rockford, Illinois 61114

Counsel for First Rockford Group, Inc.
Charles Helsten
Hinshaw & Culbertson
100 Park Avenue
Rockford, Illinois 61105

4. 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. Compliance Plan

Effective immediately, upon the commencement of and throughout all construction activities at the Site, the respondent, First Rockford Group, shall take all reasonable steps to ensure adequate storm water erosion controls are in place and maintained at the Sites to prevent erosional runoff from the Sites. These measures shall include, but are not limited to, the areas noted below:

- stabilization of the barren land on the northeast corner area of Perryville Road and Illinois Route 173;
- provision of discharge outlet protection for the retention pond in the southeast portion of the Wexford site, and stabilization of the berms surrounding the pond;
- provision of silt retention structures for the Mitchell and Bauer Roads retention pond outlet in the Wexford site; ; and
- stabilization of the hillside on Anjali Street, one half block west of Mitchell Road in the Winchester site, and the area south of Anjali Street west of Wimbledon on the south side of the street.

C. Supplemental Environmental Project

1. As part of its settlement of this matter, within thirty (30) days after the date this Stipulation is accepted by the Board, the Respondent First Rockford Group shall submit the sum of Twenty Thousand Dollars (\$20,000.00) to Rockford School District #205 for its use in retrofitting school buses to reduce particulate matter and nitrous oxide (“NOX”) emissions from its buses. Engine control units on the buses will be reprogrammed and ultra low sulfur fuel will be used to reduce NOX emissions by 25-30%. Exhaust filters will be installed to reduce particulate emissions by 90-95%. Finally, the idle shut-off portion of the engine control units for the buses will be activated to reduce idle times, saving fuel and reducing NOX and particulate emissions.

2. Respondent First Rockford Group shall submit a check for \$20,000.00 payable to Rockford School District #205, within thirty (30) days after the date this Stipulation is accepted by the Board, to Dr. Dennis Thompson, Superintendent, Rockford School District #205, 201 South Madison Street, Rockford, Illinois 61104. Respondent shall send a copy of the check and any accompanying cover letter to Nancy J. Tikalsky, Assistant Attorney General, on the date the check is submitted to Mr. Thompson.

3. By signature on this Stipulation, Respondent First Rockford certifies that, as of the date of filing of this Stipulation, it is not required to perform or develop the foregoing SEP by any federal, state or local law or regulation, nor is it required to perform or develop the SEP by agreement or injunctive relief in any other case. Respondent further certifies that it has not received, and is not presently negotiating to receive credit for, the SEPs in any other enforcement action.

4. Any public statement, oral or written, in print, film or other media, made by Respondent making reference to any SEP shall include the following language: “This project was undertaken in connection with the settlement of an enforcement action taken by the Illinois Attorney General and the Illinois EPA for alleged violations of the Illinois Environmental Protection Act and regulations promulgated thereunder.”

D. 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.F, 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.

E. 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 Complaints as outlined in Sections III.D and III.E (“Allegations of Non-Compliance”) of this Stipulation.

F. Release from Liability

In consideration of the Respondent's payment of the \$35,000.00 civil penalty payment and the \$20,000.00 SEP payment, any specified costs and accrued interest, completion of all activities required hereunder, agreement to Cease and Desist as contained in Section VIII.E 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 from any further liability or penalties for violations of the Act and Board Regulations that were the subject matter of the Complaints herein. The release set forth above does not extend to any matters other than those expressly specified in Complainant's Complaints PCB 05-215 filed on June 15, 2005 and PCB 06-103 filed on December 15, 2005. 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.

G. 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.

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,

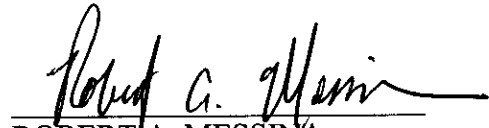
LISA MADIGAN
Attorney General
State of Illinois

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

BY: 
ROSEMARIE CAZEAU, Chief
Environmental Bureau
Assistant Attorney General

DATE: 3/1/07

ILLINOIS ENVIRONMENTAL PROTECTION
AGENCY

BY: 
ROBERTA A. MESSINA
Chief Legal Counsel

DATE: 2/27/07

FIRST ROCKFORD GROUP, INC.

BY: _____
Name: _____
Title: _____

DATE: _____

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: _____

ILLINOIS ENVIRONMENTAL PROTECTION
AGENCY

BY: _____
ROBERT A. MESSINA
Chief Legal Counsel

DATE: _____

FIRST ROCKFORD GROUP, INC.

BY: Sumit Puri
Name: SUMIT PURI
Title: PRESIDENT

DATE: 5/4/07

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: _____

ILLINOIS ENVIRONMENTAL PROTECTION
AGENCY

BY: _____
ROBERT A. MESSINA
Chief Legal Counsel

DATE: _____

FIRST ROCKFORD GROUP, INC.

BY: *Sunil Puri*
Name: *SUNIL PURI*
Title: *PRESIDENT*

DATE: *5/4/07*

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: _____

ILLINOIS ENVIRONMENTAL PROTECTION
AGENCY

BY: _____
ROBERT A. MESSINA
Chief Legal Counsel

DATE: _____

FIRST ROCKFORD GROUP, INC.

BY: *Sunil Puri*
Name: SUNIL PURI
Title: PRESIDENT

DATE: 5/4/07

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: _____

ILLINOIS ENVIRONMENTAL PROTECTION
AGENCY

BY: _____
ROBERT A. MESSINA
Chief Legal Counsel

DATE: _____

FIRST ROCKFORD GROUP, INC.

BY: Sunil Puri
Name: SUNIL PURI
Title: PRESIDENT

DATE: 8/4/07

ORIGINAL

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
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 FIRST ROCKFORD GROUP, INC.,)
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 Respondents.)

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MAY 16 2007

STATE OF ILLINOIS
Pollution Control Board

PCB 05-215

PCB 06-103

Consolidated

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 June 15, 2005, Complaint number PCB 05-215 was filed with the Illinois Pollution Control Board ("Board") in this matter.
2. On December 15, 2005, Complaint number PCB 06-103 was filed with the Illinois Pollution Control Board ("Board") in this matter.
3. On February 2, 2006, case numbers PCB 05-215 and PCB 06-103 were consolidated by the Board.
4. On May 16, 2007, a Stipulation and Proposal for Settlement was filed with the Board.

5. Section 31(c)(2) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31(c)(2) (2004), 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.

6. Section 31(c)(2) of the Act, 415 5/31(c)(2) (2004), provides as follows:

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

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

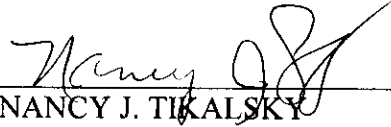
8. The Complainant requests the relief conferred by Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2004).

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) (2004).

Respectfully submitted,

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

BY: _____


NANCY J. TIKALSKY
Assistant Attorney General
Environmental Bureau North
69 West Washington St., Suite 1800
Chicago, Illinois 60602
312-814-8567

ORIGINAL

CERTIFICATE OF SERVICE

RECEIVED
CLERK'S OFFICE

MAY 16 2007

STATE OF ILLINOIS
Pollution Control Board

I, NANCY J. TIKALSKY, an Assistant Attorney General, do hereby certify that the following documents are being mailed to the undersigned on this 16th day of May, 2007, the foregoing Motion to Request Relief from Hearing, Stipulation and Proposal for Settlement with Respondent FIRST ROCKFORD GROUP, INC., and Notice of Filing, upon the persons listed on said notice, by certified mail.



NANCY J. TIKALSKY
Assistant Attorney General
Environmental Bureau
69 W. Washington, Suite 1800
Chicago, IL 60602
312-814-8567