

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS, )  
 )  
                                   Complainant, )  
 )  
                                   vs. )  
 )  
 P & H MFG. CO., a Delaware )  
 corporation, )  
 )  
                                   Respondent. )

PCB No.  
 (Enforcement - Land)

**NOTICE OF ELECTRONIC FILING**

To: See Attached Service List

PLEASE TAKE NOTICE that on June 3, 2011, I electronically filed with the Clerk of the Pollution Control Board of the State of Illinois, c/o John T. Therriault, Assistant Clerk, James R. Thompson Center, 100 W. Randolph St., Ste. 11-500, Chicago, IL 60601, a COMPLAINT, MOTION FOR RELIEF FROM HEARING REQUIREMENT and STIPULATION AND PROPOSAL FOR SETTLEMENT, copies of which are 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: *Rachel R. Medina*  
 Rachel R. Medina  
 Assistant Attorney General  
 Environmental Bureau

500 South Second Street  
 Springfield, Illinois 62706  
 217/782-9031  
 Dated: June 3, 2011

**CERTIFICATE OF SERVICE**

I hereby certify that I did on June 3, 2011, cause to be served by First Class Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box in Springfield, Illinois, a true and correct copy of the following instruments entitled NOTICE OF ELECTRONIC FILING, COMPLAINT, MOTION FOR RELIEF FROM HEARING REQUIREMENT and STIPULATION AND PROPOSAL FOR SETTLEMENT upon the persons listed on the Service List.

  
\_\_\_\_\_  
Rachel R. Medina  
Assistant Attorney General

This filing is submitted on recycled paper.

**SERVICE LIST**

P & H Mfg. Co.  
c/o Dennis Hendrix, R.A.  
604 South Lodge Street  
Shelbyville, IL 62565

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

<b>PEOPLE OF THE STATE OF ILLINOIS,</b>	)	
	)	
<b>Complainant,</b>	)	
	)	
<b>vs.</b>	)	<b>PCB No.</b>
	)	<b>(Enforcement - Land)</b>
<b>P &amp; H MFG. CO., a Delaware</b>	)	
<b>corporation,</b>	)	
	)	
<b>Respondent.</b>	)	

**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) (2008), 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) (2008). In support of this motion, Complainant states as follows:

1. A Complaint and Stipulation and Proposal for Settlement are being filed simultaneously with the Illinois Pollution Control Board ("Board") in this matter.
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) (2008).

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) (2008).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS  
LISA MADIGAN  
ATTORNEY GENERAL

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

BY: 

Rachel R. Medina  
Environmental Bureau  
Assistant Attorney General

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: June 3, 2011

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

<b>PEOPLE OF THE STATE OF ILLINOIS,</b>	)	
	)	
<b>Complainant,</b>	)	
	)	
<b>v.</b>	)	<b>PCB NO.</b>
	)	<b>(Enforcement – Land)</b>
<b>P &amp; H MFG. CO., a Delaware Corporation,</b>	)	
	)	
<b>Respondent.</b>	)	

**COMPLAINT**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and at the request of the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, complains of Respondent, P & H MFG. CO., as follows:

**COUNT I**

**HAZARDOUS WASTE STORAGE**

1. This Complaint is brought by the Attorney General on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2008).
2. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2008), and charged *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board ("Board").
3. The Illinois Pollution Control Board ("Board") is an agency of the State of Illinois created by the Illinois General Assembly in Section 5 of the Act, 415 ILCS 5/5 (2008), and charged with the duty of promulgating regulations under the Act, pursuant to Section 26 of the Act, 415 ILCS 5/26 (2008).

4. P & H Mfg. Co. (P & H) is a Delaware corporation registered to do business in Illinois. The registered agent for service is Dennis Hendrix, 604 South Lodge Street, Shelbyville, IL 62565.

5. P & H operates a metal fabrication business at 604 South Lodge Street, Shelbyville, IL 62565 ("the site"). Among other metal working processes, the site operates two (2) dry-filter paint booths which are used to apply paint to finished products. The spray booths generate a variety of wastes, including, but not limited to, waste liquid paint and solvents, waste paint solids, and waste paint filters.

6. The federal Resource Conservation and Recovery Act ("RCRA") provides for the comprehensive regulation of hazardous waste and is administered by the Illinois EPA.

7. Waste liquid paint and solvents and waste paint solids are RCRA regulated wastes, and are designated as F003, F005, D007 and D008 hazardous waste, pursuant to Sections 721.124(b) and 721.131(a) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 721.124(b) and 721.131(a).

8. P & H conducted a waste-storage operation without a RCRA permit.

9. During 2009, the Respondent manifested approximately 810 gallons of waste paint related material for disposal.

10. On January 21, 2010, the Illinois EPA conducted an inspection of the facility. On that date, each of the two paint booths had one (1) drum to collect waste solvents. Each drum had open bungs and neither had been labeled with the words "Hazardous Waste." In addition, three (3) drums of waste were located in the waste storage area at the site. One (1) of the three (3) drums was not labeled with the words "Hazardous Waste" and it was not dated with the accumulation date.

11. Section 21 of the Act, 415 ILCS 5/21(f) (2008), provides, in pertinent part, as follows:

No person shall:

\*\*\*

- (f) Conduct any hazardous waste-storage, hazardous waste-treatment or hazardous waste-disposal operation:
  - (1) without a RCRA permit....; or
  - (2) in violation of any regulations or standards adopted by the Board under this Act; ...

\*\*\*

12. Section 3.535 of the Act, 415 ILCS 5/3.535, provides as follows:

"Waste" means any garbage . . . or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities. . .

13. Section 3.220 of the Act, 415 ILCS 5/3.220, provides as follows:

"Hazardous waste" means a waste, or combination of wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious, irreversible, or incapacitating reversible, illness; or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed, and which has been identified, by characteristics or listing, as hazardous pursuant to Section 3001 of the Resource Conservation and Recovery Act of 1976, P.L. 94-580, or pursuant to Board regulations.

14. Section 703.121 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 703.121, provides, in pertinent part, as follows:

- a) No person may conduct any hazardous waste storage, hazardous waste treatment, or hazardous waste disposal operation as follows:
  - 1) Without a RCRA permit for the HWM (hazardous waste management) facility; or
  - 2) In violation of any condition imposed by a RCRA permit.
- b) An owner or operator of a HWM unit must have permits during the active life (including the closure period) of the unit....

\*\*\*



15. Section 722.134(d)(4) of the Board's Waste Disposal Regulations, 35 Ill. Adm.

Code 722.134(d)(4), provides, in pertinent part, as follows:

(D) A generator that generates greater than 100 kilograms but less than 1,000 kilograms of hazardous waste in a calendar month may accumulate hazardous waste on-site for 180 days or less without a permit or without having interim status provided that the following conditions are fulfilled:

\* \* \*

4) The generator complies with the requirements of subsections (a)(2) and (a)(3) of this Section, Subpart C of 35 Ill. Adm. Code 725, and 35 Ill. Adm. Code 728.107(a)(5); and

\* \* \*

16. Section 722.134(a)(2) and (a)(3) of the Board's Waste Disposal Regulations, 35

Ill. Adm. Code 722.134(a)(2), (a)(3), provide, in pertinent part, as follows:

a) Except as provided in subsection (d), (e), (f), (g), (h), or (i) of this Section, a generator is exempt from all the requirements in Subparts G and H of 35 Ill. Adm. Code 725, except for 35 Ill. Adm. Code 725.211 and 725.214, and may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that the following conditions are fulfilled:

\* \* \*

2) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;

3) While being accumulated on-site, each container and tank is labeled or marked clearly with the words "Hazardous Waste"; and

\* \* \*

17. By not clearly marking the accumulation date and the words "Hazardous Waste" on all drums of hazardous waste at the site, the Respondent has violated the permit exemption requirements in Sections 722.134(a) and 722.134(d) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 722.134(a), (d).

18. Section 722.134(c) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 722.134(c), provides, in pertinent part, as follows:

1) A generator may accumulate as much as 55 gallons (208 ℓ) of hazardous waste or one quart of acutely hazardous waste listed in 35 Ill. Adm. Code 721.133(e) in containers at or near any point of

generation where wastes initially accumulate that is under the control of the operator of the process generating the waste without a permit or interim status and without complying with subsection (a) of this Section, provided the generator does the following:

- A) The generator complies with 35 Ill. Adm. Code 725.271, 725.272, and 725.273(a); and
- B) The generator marks the containers either with the words "Hazardous Waste" or with other words that identify the contents of the containers.

\*\*\*

19. Section 725.273(a) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 725.273(a), provides, in pertinent part, as follows:

- a) A container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.

20. By not keeping all hazardous waste containers closed during storage, except when necessary to add or remove waste, and not marking the hazardous waste containers located at the point of generation with the words "Hazardous Waste" or other words that identify the contents, Respondent violated the permit exemption requirements in Sections 722.134(c) and 725.273(a) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 722.134(c) and 725.273(a).

21. By causing or allowing the storage of hazardous waste without a RCRA permit or in violation of any regulations or standards adopted by the Board under this Act, the Defendant has violated Section 21(f) of the Act, 415 ILCS 5/21(f) (2008).

#### **PRAYER FOR RELIEF**

WHEREFORE, Complainant, the People of the State of Illinois, respectfully request that the Board enter an order against the Respondent, P & H MFG. CO.:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that the Respondent has violated the Act as alleged herein;

- C. Ordering the Respondent to cease and desist from any further violations of the Act;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2008), imposing a civil penalty of not more than the statutory maximum; and
- E. Granting such other relief as the Board may deem appropriate.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,  
*ex rel.* LISA MADIGAN,  
Attorney General of the  
State of Illinois

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

BY: 

\_\_\_\_\_  
THOMAS DAVIS, Chief  
Environmental Bureau  
Assistant Attorney General

Of Counsel:

RACHEL R. MEDINA  
ARDC# 6297171  
Assistant Attorney General  
Springfield, Illinois 62706  
(217) 782-9031  
Dated: June 1, 2011

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

<b>PEOPLE OF THE STATE OF ILLINOIS,</b>	)	
	)	
<b>Complainant,</b>	)	
	)	
<b>v.</b>	)	<b>PCB NO.</b>
	)	<b>(Enforcement-Land)</b>
<b>P &amp; H MFG. CO., a Delaware Corporation</b>	)	
	)	
<b>Respondent.</b>	)	

**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 P & H MFG. CO., a Delaware Corporation ("Respondent") ("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. This 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.* (2008), 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 it be a final adjudication of this matter.

**I. STATEMENT OF FACTS**

**A. Parties**

1. Contemporaneous with the filing of this Stipulation, 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 (2008), 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 (2008).

3. At all times relevant to the Complaint, Respondent was and is a Delaware corporation that is authorized to transact business in the State of Illinois. The registered agent is Dennis Hendrix, 604 S. Lodge, Shelbyville, IL 62565.

4. At all times relevant to the Complaint, Respondent owned and operated a manufacturing plant located at 604 South Lodge, Shelbyville, Shelby County, Illinois ("site").

5. Among other metal working processes, the site operates two (2) dry filter paint booths which are used to apply paint to finished products. The spray booths generate a variety of wastes, including, but not limited to, waste liquid paint and solvents, waste paint solids, and waste paint filters. The waste liquid paint and solvents and waste paint solids are regulated hazardous wastes.

**B. Allegations of Non-Compliance**

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

**Hazardous Waste Storage Violations**

By not clearly marking the accumulation date and the words "Hazardous Waste" on all drums of hazardous waste at the site, the Respondent has violated the permit exemption requirements in Sections 722.134(a) and 722.134(d) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 722.134(a), (d).

By not keeping all hazardous waste containers closed during storage, except when necessary to add or remove waste, and not marking the hazardous waste containers located at the point of generation with the words "Hazardous Waste" or other words that identify the contents, Respondent violated the permit exemption requirements in Sections 722.134(c) and 725.273(a) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 722.134(c) and 725.273(a).

By causing or allowing the storage of hazardous waste without a RCRA permit or in violation of any regulations or standards by the Board under this Act, the Respondent violated Section 21(f) of the Act, 415 ILCS 5/12(a) (2008).

**C. Admission of Violations**

The Respondent admits to the violation(s) alleged in the Complaint filed in this matter and referenced within Section I.B herein.

**II. APPLICABILITY**

This Stipulation shall apply to and be binding upon the Parties to the Stipulation, 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. 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 for all violations alleged in the Complaint in this matter, for purposes of Sections 39 and 42 of the Act, 415 ILCS 5/39 and 42 (2008).

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

Section 33(c) of the Act, 415 ILCS 5/33(c)(2008), 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 to the Stipulation state the following:

1. Failure to identify, mark, label and date hazardous waste interferes with the Illinois EPA's ability to inspect, oversee or monitor Respondent's handling of hazardous waste. In addition, the failure to properly identify, mark, label, and date hazardous waste at Respondent's facility poses an additional threat to Respondent's employees and the public. The storage and handling regulations are designed to prevent the uncontrolled exposure of the public to these wastes.

2. The parties agree that the Respondent's operations are of economic benefit to the surrounding community. Any social benefit is derived primarily from those employed by the facility.

3. Respondent's operations are suitable to the area in which they occur.

4. The parties agree it is both technically practicable and economically reasonable to take steps to comply with the requirements of the Act, 415 ILCS 5/1 *et seq.* (2008), and associated regulations, and that Respondent is taking steps to comply with the Act.

5. Respondent has subsequently complied with the Act and the Board Regulations. Respondent submitted to the IEPA evidence of manifesting the drum of waste paint related material on January 28, 2010. Respondent submitted the non-hazardous special waste annual report for 2009. Respondent developed a "Drum Checklist" to facilitate daily inspections of drums in the paint booths and paint shed for proper management, labeling, marking, and dating. Respondent also met with local authorities to familiarize them with their facility and the properties of hazardous waste handled at the site.

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

Section 42(h) of the Act, 415 ILCS 5/42(h)(2008), 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 to the Stipulation state as follows:

1. On January 21, 2010, the Illinois EPA conducted a compliance inspection of the site. On that date, each of the two paint booths was storing a drum to collect waste solvents. Each drum had open bungs and neither had been labeled with the words "Hazardous Waste" or otherwise marked to indicate their contents. In addition, three (3) drums of waste were located in the waste storage area at the site. One (1) of the three (3) drums was not properly labeled or dated with the date of accumulation. By failing to properly manage, mark, label and date drums of hazardous waste, Respondent placed its small quantity generator status in jeopardy.



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. Respondent manifested the hazardous waste on site in a timely manner. Therefore, any economic benefit in this case is nominal.

4. Complainant has determined, based upon the specific facts of this matter, that a penalty of Thirty-Eight Thousand (\$38,000.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

5. Respondent has been previously adjudicated in violation of hazardous waste storage and disposal regulations on two separate occasions: a) *People v. P & H Manufacturing Company*, Shelby County Circuit Court Case No. 87-Ch-16; and, b) *People v. P & H Manufacturing Company*, Illinois Pollution Control Board Case No. 98-154.

- a. In Shelby County Circuit Case No. 87-Ch-16, a Stipulation and Settlement Agreement and Consent Order was filed on September 26, 1988. Paragraph 3 of that Consent Order provides that the Respondent is permanently enjoined from any violations of 21(f)(2) and 21(g)(2) of the Illinois Environmental Protection Act, 415 ILCS 5/21(f)(2), (g)(2) (1996), as well as 35 Ill. Adm. Code 722.111, 722.112(a), 722.112(e), 722.120(a), 722.130, 722.131, 722.134(a), 722.132(b), 725.116, 725.133, 725.137, 725.151, and 725.155.
- b. In the Illinois Pollution Control Board Case No. 98-154, a Stipulation and Proposal for Settlement was filed on August 12, 1999. Paragraph IX.4 of that settlement provides that the Respondent shall "diligently comply with, and shall cease and desist from violation of the Act, 415 ILCS 5/1 et seq. (1996), the Board's rules and regulations (35 Ill. Adm. Code Subtitles A through H (1994)) and any and all federal laws and regulations.

c. By violating Sections of the Act, including Section 21(f)(2), and the Board's rules and regulations, including 35 Ill. Adm. Code 722.134(a), Respondent violated the Consent Order in the Shelby County Circuit Case No. 87-Ch-16 and the Stipulation and Proposal for Settlement in the Illinois Pollution Control Board Case No. 98-154.

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

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

#### **V. TERMS OF SETTLEMENT**

##### **A. Penalty Payment**

1. The Respondent shall pay a civil penalty in the sum of Thirty-Eight Thousand Dollars (\$38,000.00) in three installments. The first installment of \$12,000 shall be paid within 30 days of entry of the Board's Order approving this Stipulation and Proposal for Settlement. The second installment of \$13,000 shall be paid within 180 days of entry of the Board's Order. And, the third installment of \$13,000 shall be paid within 365 days of entry of the Board's Order.

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

1. If the Respondent fails to make any payment required by this Stipulation on or before the date upon which the payment is due, the 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, the Complainant shall be entitled to reasonable costs of collection, including reasonable attorney's fees.

2. Pursuant to Section 42(g) of the Act, interest shall accrue on any penalty amount owed by the Respondent not paid within the time prescribed herein. Interest on unpaid penalties shall begin to 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.

**C. Payment Procedures**

All payments 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, IL 62794-9276

The name, case number and the Respondent's federal tax identification number shall appear on the face of the certified check or money order. A copy of the certified check or money order and any transmittal letter shall be sent to:

Environmental Bureau  
Illinois Attorney General's Office  
500 South Second Street  
Springfield, Illinois 62706

**D. Future Compliance**

1. In addition to any other authorities, the Illinois EPA, its employees and representatives, and the Attorney General, her employees 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 conducting inspections and evaluating compliance status. 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.

2. 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.

3. The Respondent shall diligently comply with, and shall cease and desist from future violations of the Act, 415 ILCS 5/1 et seq. (2008), the Board's rules and regulations (35 Ill. Adm. Code Subtitles A through H), and any and all federal laws and regulations.

**E. Release from Liability**

In consideration of the Respondent's payment of the \$38,000.00 penalty, its commitment to cease and desist as contained in Section V.D. above, and upon the Board's approval of this Stipulation, the Complainant releases, waives and discharges the 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 Complainant's Complaint filed contemporaneously with this Stipulation. 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 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.

**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.

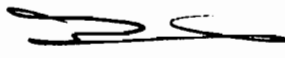
WHEREFORE, the Parties to the Stipulation request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

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

FOR THE ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

LISA BONNETT, Interim Director  
Illinois Environmental Protection Agency

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


BY:   
\_\_\_\_\_  
THOMAS DAVIS, Chief  
Environmental Bureau  
Assistant Attorney General

BY:   
\_\_\_\_\_  
JOHN J. KIM  
Chief Legal Counsel

DATE: 5/20/11

DATE: 5/20/11

P & H MANUFACTURING COMPANY

BY:   
\_\_\_\_\_  
DENNIS HENDRIX, Comptroller  
pursuant to the affirmative vote of  
a majority of the members of the  
Board of Directors thereof

DATE: 5/31/11