

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
LISA MADIGAN, Attorney General of the)	
State of Illinois,)	
)	
Complainant,)	
)	
v.)	PCB No. 2011 -
)	(Enforcement – Air)
VICTOR ENVELOPE COMPANY,)	
an Illinois corporation,)	
)	
Respondent.)	

NOTICE OF FILING

To: See attached service list
(VIA ELECTRONIC FILING)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Pollution Control Board by electronic filing the following Complaint for Civil Penalties, Stipulation and Proposal for Settlement, and Motion for Relief from Hearing Requirement, copies of which are attached and hereby served upon you.

LISA MADIGAN
Attorney General
State of Illinois

Jennifer A. Van Wie
JENNIFER A. VAN WIE

Dated: June 23, 2011

Jennifer A. Van Wie
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THIS FILING IS SUBMITTED ON RECYCLED PAPER

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Respondent.)	

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, VICTOR ENVELOPE COMPANY, an Illinois corporation, as follows:

COUNT I
CONSTRUCTION OF EMISSION SOURCES WITHOUT A PERMIT

1. This Complaint is brought by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency (“Illinois EPA”) pursuant to Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2010), (“Complaint”).
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 (2010), and charged, *inter alia*, with the duty of enforcing the Act.
3. At all times relevant to this Complaint, Respondent, VICTOR ENVELOPE COMPANY, (“Victor Envelope” or “Respondent”) was and is an Illinois corporation, duly authorized to do business in the State of Illinois.

4. At all times relevant to this Complaint, Respondent Victor Envelope owned and operated an envelope manufacturing facility located at 301 Arthur Court, Bensenville, DuPage County, Illinois ("Facility").

5. Victor Envelope manufactures and prints on various types of envelopes at the Facility.

6. Victor Envelope began operating at the Facility in 1968.

7. In 1968, one (1) flexographic printing press was constructed at the Facility. From October 1978, or a date or dates better known to the Respondent, through at least April 21, 2009, when the Illinois EPA inspected the Facility, Victor Envelope constructed an additional eighteen (18) flexographic printing presses at the Facility, fifteen (15) of which contain glue application capabilities.

8. From December 1982, or a date or dates better known to the Respondent, through at least April 21, 2009, Victor Envelope constructed seven (7) lithographic printing presses at the Facility.

9. From January 1974, or a date or dates better known to the Respondent, through at least April 21, 2009, Victor Envelope constructed eight (8) folding gluers at the Facility.

10. From April 2003, or a date or dates better known to the Respondent, through at least April 21, 2009, Victor Envelope constructed three (3) silk screen presses at the Facility.

11. In October 2007, or a date or dates better known to the Respondent, Victor Envelope constructed one (1) solvent distillation unit at the Facility.

12. Since 1972, when the permit requirements became effective pursuant to the Act, Victor Envelope was required to have an operating permit for all emission units at its Facility.

13. From at least 1972, and continuing to the date of filing of this Complaint, Victor

Envelope operated nineteen (19) flexographic printing presses (fifteen (15) with glue applicator capabilities), seven (7) lithographic printing presses, eight (8) folding gluers, three (3) silk screen presses, and one (1) solvent distillation unit at the Facility (collectively "Emission Units").

14. Each of the 38 Emission Units at the Facility emitted or was capable of emitting Volatile Organic Material ("VOM") into the environment.

15. At no time from 1972 to the filing date of this Complaint did Victor have an operating permit to operate the Emission Units at the Facility.

16. On February 23, 2009, Victor Envelope submitted a construction permit application for some or all of the Emission Units at the Facility to the Illinois EPA.

17. On March 6, 2009, Illinois EPA issued a Notice of Incompleteness to Victor Envelope for the February 23, 2009 construction permit application because the emission units at the Facility appeared to have already been constructed, the source appeared to be subject to the Clean Air Act Permit Program ("CAAPP") requirements, and the application lacked other necessary information.

18. On April 21, 2009, Illinois EPA conducted an inspection of the Facility.

19. The April 21, 2009 inspection confirmed that all Emission Units at the Facility were constructed prior to submission of Respondent's February 23, 2009 construction permit application.

20. At the April 21, 2009 inspection, the Illinois EPA inspector noted that Respondent was operating the Emission Units at the Facility without an operating permit.

21. Subsequent to the April 21, 2009 inspection, the Illinois EPA determined that Respondent failed to certify compliance with, or eligibility for exemption from, the regulation requirements for its flexographic printing presses and lithographic printing presses.

22. On May 5, 2009, Victor Envelope submitted an application to Illinois EPA for a Federally Enforceable State Operating Permit ("FESOP").

23. Victor Envelope's operation of the Facility is subject to the Act and the rules and regulations promulgated by the Illinois Pollution Control Board ("Board"). The Board's regulations for air pollution are found in Title 35, Subtitle B, Chapter I, of the Illinois Administrative Code ("Board Air Pollution Regulations").

24. Section 9(b) of the Act, 415 ILCS 5/9(b) (2010), provides as follows:

No person shall:

* * *

(b) Construct, install, or operate any equipment, facility, vehicle, vessel, or aircraft capable of causing or contributing to air pollution or designed to prevent air pollution, of any type designated by Board regulations, without a permit granted by the Agency, or in violation of any conditions imposed by such permit;

* * *

25. Section 3.315 of the Act, 415 ILCS 5/3.315 (2010), provides the following definition:

"Person" is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

26. Victor Envelope, an Illinois corporation, is a "person" as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2010).

27. Section 3.115 of the Act, 415 ILCS 5/3.115 (2010), provides the following definition:

"AIR POLLUTION" is the presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to

property, or to unreasonably interfere with the enjoyment of life or property.

28. Section 3.165 of the Act, 415 ILCS 5/ 3.165 (2010), provides the following definition:

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

29. VOM is a “contaminant” as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2010).

30. Because the Emission Units at the Facility emit, or are capable of emitting, VOM, a contaminant, to the atmosphere, they are capable of causing or contributing to air pollution.

31. Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142, provides as follows:

Construction Permit Required

No person shall cause or allow the construction of any new emission source or any new air pollution control equipment, or cause or allow the modification of any existing emission source or air pollution control equipment, without first obtaining a construction permit from the Agency, except as provided in Sections 201.146 or Section 201.170(b) of this Part.

32. Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102, provides the following definitions:

"Construction": commencement of on-site fabrication, erection or installation of an emission source or of air pollution control equipment.

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

"New Emission Source": any emission source, the construction or modification of which is commenced on or after April 14, 1972.

“Specified Air Contaminant”: any air contaminant as to which this Subtitle contains emission standards or other specific limitations and any contaminant regulated in Illinois pursuant to Section 9.1 of the Act.

33. VOM is a “specified air contaminant” as that term is defined in Section 201.102 of the Board Air Pollution Regulations.

34. Beginning in 1974 and continuing until 2009, on dates better known to Respondent, Respondent constructed and began operating eighteen (18) flexographic printing presses, seven (7) lithographic printing presses, eight (8) folding gluers, three (3) silk screen presses and one (1) solvent distillation unit at the Facility without the required construction permits. This constituted “construction” of “new emission sources” as those terms are defined by Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102.

35. Victor Envelope failed to obtain the required construction permit(s) from the Illinois EPA prior to constructing new emission sources at the Facility.

36. Victor Envelope’s new emission sources were not exempted from the State permitting requirements by the Illinois EPA pursuant to Section 201.146 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.146.

37. By constructing new emission sources without obtaining any construction permits from the Illinois EPA, Victor Envelope violated Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142, and thereby, violated Section 9(b) of the Act, 415 ILCS 5/9(b)(2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against the Respondent, VICTOR ENVELOPE COMPANY, for the following relief:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Section 9(b) of the Act, 415 ILCS 5/9(b)

(2010), and Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142;

3. Ordering the Respondent to cease and desist from any further violations of Section 9(b) of the Act, 415 ILCS 5/9(b) (2010), and Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142;

4. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000.00) for each and every violation of the Act and pertinent regulations, with an additional penalty of ten thousand dollars (\$10,000.00) for each day of violation;

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

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

COUNT II
FAILURE TO OBTAIN A CLEAN AIR ACT PERMIT PROGRAM (“CAAPP”)
PERMIT

1-29. Complainant realleges and incorporates by reference herein paragraphs 1 through 23 and 25 through 30 of Count I as paragraphs 1 through 29 of this Count II.

30. Information available to the Illinois EPA through inspections, permit applications and other records indicates that since at least 2002, or on a date or dates better known to Victor Envelope, Victor Envelope had a potential to emit (“PTE”) of VOM greater than 25 tons per year, the threshold for a major source at the time, and a PTE greater than 10 tons per year for a single hazardous air pollutant (“HAP”) and/or 25 tons per year for combined HAPs.

31. Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (2010), provides the following definitions:

“CAAPP” means the Clean Air Act Permit Program developed pursuant to Title V of the Clean Air Act.

“CAAPP permit”. . .means any permit issued, renewed, amended,

modified or revised pursuant to Title V of the Clean Air Act.

“CAAPP source” means any source for which the owner or operator is required to obtain a CAAPP permit pursuant to subsection 2 of this Section.

“Owner or operator” means any person who owns, leases, operates, controls, or supervises a stationary source.

“Potential to emit” means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by USEPA. This definition does not alter or affect the use of this term for any other purposes under the Clean Air Act, or the term “capacity factor” as used in Title IV of the Clean Air Act or the regulations promulgated thereunder.

“Stationary source” means any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any pollutant listed under Section 112(b) of the Clean Air Act.

32. Respondent Victor Envelope owns or operates a stationary source as that term is defined in Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (2010).

33. Section 39.5(2) of the Act, 415 ILCS 39.5(2) (2010), provides in pertinent part as follows:

2. Applicability.

a. Sources subject to this Section shall include:

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

* * *

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

- i. A major source under Section 112 of the Clean Air Act, which is defined as:
 - A. For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutant which has been listed pursuant to Section 112(b) of the Clean Air Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as USEPA may establish by rule.

* * *

- iii. A major stationary source as defined in part D of Title I of the Clean Air Act including:
 - A. For ozone nonattainment areas, sources with the potential to emit 100 tons or more per year of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate", 50 tons or more per year in areas classified as "serious", 25 tons or more per year in areas classified as "severe", and 10 tons or more per year in areas classified as "extreme";

34. In 2002, the Chicago area was designated as "severe" nonattainment for ozone.

35. Since at least 2002, or on a date or dates better known to Victor Envelope, Victor Envelope has had a potential to emit VOM greater than 25 tons per year, and thus became a major source under Section 39.5(2)(c)(iii)(A) of the Act, 415 ILCS 5/39.5(2)(c)(iii)(A) (2010).

36. Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b) (2010), provides as follows:

6. Prohibitions.

* * *

- b. ... no person shall operate a CAAPP source without a CAAPP permit unless the complete CAAPP permit or renewal application for such source has been timely submitted to the Agency.

37. Respondent Victor Envelope was required to submit its CAAPP permit application or a FESOP application no later than 180 days prior to becoming a major source. *See* 415 ILCS 5/39.5(5)(x) (2010).

38. On May 5, 2009, the Illinois EPA received Respondent Victor Envelope's FESOP application on CAAPP forms, approximately seven (7) years after the prescribed time period for the submission of a CAAPP or FESOP permit application.

39. By failing to timely submit its CAAPP or FESOP permit application, Respondent Victor Envelope did not obtain from the Illinois EPA the requisite CAAPP permit and continues to operate a CAAPP source without the requisite permit.

40. By operating a CAAPP source without the requisite permit, Respondent Victor Envelope is in violation of Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against the Respondent, VICTOR ENVELOPE COMPANY, for the following relief:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b) (2010);
3. Ordering the Respondent to cease and desist from any further violations of Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b) (2010);
4. Assessing against Respondent a civil penalty of ten thousand dollars (\$10,000.00)

for each day of violation;

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

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

COUNT III

FAILURE TO COMPLY WITH NEW SOURCE REVIEW ("NSR") REQUIREMENTS

1-32. Complainant realleges and incorporates by reference herein paragraphs 1 through 29 and 32 through 34 of Count II as paragraphs 1 through 32 of this Count III.

33. Section 9(a) of the Act, 415 ILCS 5/9(a) (2010), provides as follows:

No person shall:

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

34. Pursuant to authority granted under the Act, the Board has promulgated standards applicable to the construction and modification of major stationary sources of contaminants at 35 Ill. Adm. Code, Part 203 ("Board Major Stationary Source Regulations").

35. Section 203.201 of the Board Major Stationary Source Regulations, 35 Ill. Adm. Code 203.201, provides as follows:

Prohibition

In any nonattainment area, no person shall cause or allow the construction of a new major stationary source or major modification that is major for the pollutant for which the area is designated a nonattainment area, except as in compliance with this Part for that pollutant. In areas designated nonattainment for ozone, this prohibition shall apply to new major stationary sources or major modifications of sources that emit volatile organic materials or nitrogen oxides.

36. Section 203.127 of the Board Major Stationary Source Regulations, 35 Ill. Adm.

Code 203.127, provides as follows:

Nonattainment Area

An area designated by USEPA as nonattainment for a given pollutant pursuant to Section 107 of the Clean Air Act (42 U.S.C. 7407).

37. Victor Envelope's Facility is located within a "nonattainment area" as that term is defined by Section 203.127 of the Board Major Source Regulations, 35 Ill. Adm. Code 203.127.

38. Section 203.128 of the Board Major Stationary Source Regulations, 35 Ill. Adm.

Code 203.128, provides as follows:

Potential to Emit

"Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

39. Section 203.136 of the Board Major Stationary Source Regulations, 35 Ill. Adm.

Code 203.136, provides as follows:

Stationary Source

"Stationary Source" means any building, structure, facility or installation which emits or may emit any air pollutant subject to regulation under the Act or this Chapter or by USEPA under the Clean Air Act (42 U.S.C. 7401 et seq.).

40. Section 203.206 of the Board Major Stationary Source Regulations, 35 Ill. Adm.

Code 203.206, provides as follows:

Major Stationary Source

- a) For purposes of this Part, the term "major stationary source" shall exclusively mean "building, structure and facility," as those terms are defined in Section 203.113 of this Part.
- b) The following constitute a major stationary source:
 - 1) For an area designated as nonattainment for ozone, a major stationary source is a stationary source which emits or has the potential to emit volatile organic material in an amount equal to or greater than the following:
 - A) 100 tons per year in an area classified as marginal or moderate nonattainment for ozone;
 - B) 50 tons per year in an area classified as serious nonattainment for ozone;
 - C) 25 tons per year in an area classified as severe nonattainment for ozone; and
 - D) 10 tons per year in an area classified as extreme nonattainment for ozone.

41. Victor Envelope's Facility is a "major stationary source" as that term is defined by Section 203.206 of the Board Major Stationary Source Regulations, 35 Ill. Adm. Code 203.206.

42. Section 203.207 of the Board Major Stationary Source Regulations, 35 Ill. Adm. Code 203.207, provides as follows:

Major Modification of a Source

- a) Except as provided in subsection (c), (d), (e) or (f) below, a physical change, or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant for which the area is designated a nonattainment area, shall constitute a major modification of a source.

43. Information available to the Illinois EPA through inspections, permit applications

and other records indicates since at least 2002, or on a date or dates better known to Victor Envelope, Victor Envelope had a PTE for VOM greater than 25 tons per year in a nonattainment area.

44. In 2003, on dates best known to Victor Envelope, Victor Envelope constructed three (3) silk screen presses at its Facility.

45. In 2007, on dates best known to Victor Envelope, Victor Envelope constructed one (1) solvent distillation unit at its Facility.

46. Victor Envelope's construction of additional equipment to the Facility in 2003 and 2007 constituted a major modification to its Facility.

47. Victor Envelope failed to demonstrate compliance with the Board's NSR regulations prior to adding the new equipment to its Facility in violation of Section 203.201 of the Board Major Stationary Source Regulations, 35 Ill. Adm. Code 203.201, and thereby, also violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against the Respondent, VICTOR ENVELOPE COMPANY, for the following relief:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2010), and Section 203.201 of the Board Major Stationary Source Regulations, 35 Ill. Adm. Code 203.201;
3. Ordering the Respondent to cease and desist from any further violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2010), and Section 203.201 of the Board Major

Stationary Source Regulations, 35 Ill. Adm. Code 203.201;

4. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000.00) for each and every violation of the Act and pertinent regulations, with an additional penalty of ten thousand dollars (\$10,000.00) for each day of violation;

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

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

COUNT IV

FAILURE TO SUBMIT ANNUAL EMISSIONS REPORTS

1-29. Complainant realleges and incorporates by reference herein paragraphs 1 through 23 and 25 through 30 of Count I as paragraphs 1 through 29 of this Count IV.

30. Section 9(a) of the Act, 415 ILCS 5/9(a) (2010), provides as follows:

No person shall:

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

31. Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), provides as follows:

The owner or operator of any emission unit or air pollution control equipment, unless specifically exempted in this Section, shall submit to the Agency as a minimum, annual reports detailing the nature, specific emission units and total annual quantities of all specified air contaminant emissions; provided, however, that the Agency may require more frequent reports where necessary to accomplish the purposes of the Act and this Chapter.

32. Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code

201.102, provides the following definitions:

“Emission Source”: Any equipment or facility of a type capable of emitting specified air contaminants to the atmosphere.

“Owner or Operator”: Any person who owns, leases, controls or supervises an emission source or air pollution control equipment.

33. Victor Envelope is an “owner or operator” of an “emission source” as those terms are defined in Section 201.102.

34. Victor Envelope is not exempt from the provisions of Section 201.302(a) of the Board Air Pollution Regulations, and therefore obligated to submit annual reports detailing the nature, specific emission units and total annual quantities of all specified air contaminant emissions.

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

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

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

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

37. As of the date of filing of this Complaint, Victor Envelope has failed to submit Annual Emission Reports (“AERs”) for calendar years 1992 through 2001 to the Illinois EPA. Victor Envelope submitted AERs for the calendar years 2002 through 2008 on September 3, 2009.

38. By failing to submit or timely submit AERs for the years 1992 through 2008, Respondent violated Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm.

Code 201.302(a), and Section 254.132(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a), and thereby also violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against the Respondent, VICTOR ENVELOPE COMPANY, for the following relief:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2010), Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Section 254.132(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a);
3. Ordering the Respondent to cease and desist from any further violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2010), Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Section 254.132(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a);
4. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000.00) for each and every violation of the Act and pertinent regulations, with an additional penalty of ten thousand dollars (\$10,000.00) for each day of violation;
5. Taxing all costs in this action, including, but not limited to, attorney, expert witness and consultant fees, against Respondent; and
6. Granting such other relief as the Board deems appropriate and just.

COUNT V
FAILURE TO DEMONSTRATE COMPLIANCE WITH FLEXOGRAPHIC PRINTING
REGULATIONS

1-30. Complainant realleges and incorporates by reference herein paragraphs 1 through 30 of Count IV as paragraphs 1 through 30 of this Count V.

31. Pursuant to authority granted under the Act, the Board has promulgated regulations limiting organic material emissions in the Chicago area, found at 35 Ill. Adm. Code, Part 218 (“O/M Emission regulations”).

32. Section 218.103 of the O/M Emission regulations, 35 Ill. Adm. Code 218.103, provides, in pertinent part, as follows:

Applicability

The provisions of this Part shall apply to all sources located in the Chicago area, which is composed of Cook, DuPage, Kane, Lake, McHenry, and Will Counties, and Aux Sable Township and Goose Lake Township in Grundy County, and Oswego Township in Kendall County.

33. Section 218.106 of the O/M Emission regulations, 35 Ill. Adm. Code 218.106, provides in pertinent part, as follows:

Compliance Dates

- a) Except as otherwise provided in this Section or as otherwise provided in a specific Subpart of this Part, compliance with the requirements of all rules is required by July 1, 1991, or September 1, 1991, for all sources located in Cook, DuPage, Kane, Lake, McHenry, or Will Counties, consistent with the appropriate provisions of Section 218.103 of this Subpart.

34. Subpart H of the O/M Emission regulations, titled PRINTING AND PUBLISHING, regulates organic material content, material usage reporting, and record keeping for the flexographic printing industry within the greater Chicago area, including DuPage County, Illinois.

35. Section 218.402 of the O/M Emission regulations, 35 Ill. Adm. Code 218.402, provides in pertinent part, as follows:

Applicability

- a) Except as otherwise provided in Section 218.401, the limitations of Section 218.401 of this Subpart apply to all flexographic and rotogravure printing lines at a subject source. Sources with flexographic and/or rotogravure printing lines are subject sources if:
 - 1) Total maximum theoretical emissions of VOM from all flexographic and rotogravure printing lines (including solvents used for cleanup operations associated with flexographic and rotogravure printing lines) at the source ever exceed 90.7 Mg (100 tons) per calendar year and the flexographic and rotogravure printing lines (including solvents used for cleanup operations associated with flexographic and rotogravure printing lines) at the source are not limited to less than 90.7 Mg (100 tons) of VOM emissions per calendar year in the absence of air pollution control equipment through production or capacity limitations contained in a federally enforceable permit or a SIP revision; or
 - 2) The flexographic and rotogravure printing lines (including solvents used for cleanup operations associated with flexographic and rotogravure printing lines) at the source have a potential to emit 22.7 Mg (25 tons) or more of VOM per year.

36. Respondent's nineteen (19) flexographic printing presses are subject to the Board's regulations for flexographic printing because its PTE is greater than 25 tons per year.

37. Sections 218.404(b)(1) and (c)(1) of the O/M Emission regulations, 35 Ill. Adm. Code 218.404(b)(1) and (c)(1)¹, provide as follows:

- b) Any owner or operator of a printing line which is exempted from any of the limitations of Section 218.401 of this Part because of the criteria in Section 218.402(a) of this Part shall comply with the following:

¹ 35 Ill. Adm. Code 218.404 was amended effective June 25, 2010. Complainant alleges Respondent violated the prior iteration of 35 Ill. Adm. Code 218.404 as set forth in this Count V.

- 1) By a date consistent with Section 218.106 of this Part, the owner or operator of a flexographic and rotogravure printing line to which this subsection is applicable shall certify to the Agency that the flexographic and rotogravure printing line is exempt under the provisions of Section 218.402

* * *

- c) Any owner or operator of a printing line subject to the limitations of Section 218.401(a) of this Part shall comply with the following:

- 1) By a date consistent with Section 218.106 of this Part, or upon initial start-up of a new printing line, or upon changing the method of compliance from an existing subject printing line from Section 218.401(b) or Section 218.401(c) of this Part to Section 218.401(a) of this Part, the owner or operator of a subject printing line shall certify to the Agency that the printing line will be in compliance with Section 218.401(a) of this Part on and after a date consistent with Section 218.106 of this Part, or on and after the initial start-up date.

38. Upon the start-up of its flexographic printing lines, Respondent Victor Envelope was required to demonstrate compliance with the Board's requirements for flexographic printing or submit a certification of eligibility for exemption from those requirements.

39. From 1991, when the flexographic printing regulations became effective, through October 7, 2009, when Victor Envelope submitted the required certification, or a date or dates best known to Victor Envelope, Victor Envelope failed to certify compliance with, or exemption from, the Board's requirements for flexographic printing, as described by 35 Ill. Adm. Code 218.404(b)(1) and (c)(1).

40. By failing to certify compliance with or exemption from the Board's requirements for flexographic printing, Victor Envelope violated Sections 218.404(b)(1) and (c)(1) of the O/M Emission regulations, 35 Ill. Adm. Code 218.404(b)(1) and (c)(1).

41. By violating Sections 218.404(b)(1) and (c)(1) of the O/M Emission regulations, 35 Ill. Adm. Code 218.404(b)(1) and (c)(1), Victor Envelope thereby also violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against the Respondent, VICTOR ENVELOPE COMPANY, for the following relief:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a)(2010), and Sections 218.404(b)(1) and (c)(1) of the O/M Emission regulations, 35 Ill. Adm. Code 218.404(b)(1) and (c)(1);
3. Ordering the Respondent to cease and desist from any further violations of Section 9(a) of the Act, 415 ILCS 5/9(a)(2010), and Sections 218.404(b)(1) and (c)(1) of the O/M Emission regulations, 35 Ill. Adm. Code 218.404(b)(1) and (c)(1);
4. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000.00) for each and every violation of the Act and pertinent regulations, with an additional penalty of ten thousand dollars (\$10,000.00) for each day of violation;
5. Taxing all costs in this action, including, but not limited to, attorney, expert witness and consultant fees, against Respondent; and
6. Granting such other relief as the Board deems appropriate and just.

COUNT VI
FAILURE TO DEMONSTRATE COMPLIANCE WITH LITHOGRAPHIC PRINTING
REGULATIONS

1-30. Complainant realleges and incorporates by reference herein paragraphs 1 through

30 of Count IV as paragraphs 1 through 30 of this Count VI.

31. Section 218.405 of the O/M Emission regulations, 35 Ill. Adm. Code 218.405, provides, in pertinent part, as follows:

Lithographic Printing: Applicability

- a) Every owner or operator of lithographic printing lines is subject to the recordkeeping and reporting requirements in Section 218.411 of this Subpart.

32. Section 218.411(a), (c) and (d) of the O/M Emission regulations, 35 Ill. Adm. Code 218.411(a), (c) and (d)², provide in relevant part as follows:

- a) An owner or operator of a lithographic printing line(s) exempt from the limitations of Section 218.407 of this Subpart because of the criteria in Section 218.405(d) of this Subpart shall comply with the following:
 - 1) By March 15, 1996, upon initial start-up of a new lithographic printing line, and upon modification of a lithographic printing line submit a certification to the Agency that includes:
 - A) A declaration that the source is exempt from the control requirements in Section 218.407 of this Part because of the criteria in Section 218.405(d) of this Subpart;
 - B) Calculations which demonstrate that combined emissions of VOM from all lithographic printing lines (including inks, fountain solutions, and solvents used for cleanup operations associated with the lithographic printing lines) at the source never exceeded 45.5 kg/day (100 lbs/day) before the use of capture systems and control devices...
 - C) Either a declaration that the source, through federally enforceable permit conditions, has limited its maximum theoretical emissions of VOM from all heatset web offset lithographic printing lines (including solvents used for cleanup operations

² 35 Ill. Adm. Code 218.411 was amended effective June 25, 2010. Complainant alleges Respondent violated the prior iteration of 35 Ill. Adm. Code 218.411 as set forth in this Count VI.

associated with heatset web offset printing lines) at the source to no more than 90.7 Mg (100 tons) per calendar year before the application of capture systems and control devices or calculations which demonstrate that the source's total maximum theoretical emissions of VOM do not exceed 90.7 Mg/yr (100 TPY)...

- D) A description and the results of all tests used to determine the VOM content of inks, fountain solutions additives, and cleaning solvents, and a declaration that all such tests have been properly conducted in accordance with Section 218.409(c)(1) of this Subpart...

* * *

- c) An owner or operator of a lithographic printing line subject to Section 218.407(a)(1)(A), (a)(2), or (a)(3) of this Subpart, shall:

- 1) By March 15, 1996, and upon initial start-up of a new lithographic printing line, certify to the Agency that fountain solutions used on each lithographic printing line will be in compliance with the applicable VOM content limitation.

* * *

- d) For lithographic printing line cleaning operations, an owner or operator of a lithographic printing line subject to the requirements of Section 218.407 of this Subpart shall:

- 1) By March 15, 1996, or upon initial start-up of a new lithographic printing line, certify to the Agency that all cleaning solutions, and the handling of cleaning materials, will be in compliance with the requirements of Section 218.407(a)(4)(A) or (a)(4)(B) and (a)(5) of this Subpart...

33. By March 15, 1996 or upon the start-up of its lithographic printing lines, Respondent Victor Envelope was required to submit a certification of compliance with the Board's requirements for lithographic printing or submit a certification of eligibility for exemption from those requirements.

34. From 1996 through October 7, 2009, when Victor Envelope submitted the required certification, or a date or dates best known to Victor Envelope, Victor Envelope failed to certify compliance with the Board's requirements for lithographic printing, as described by 35 Ill. Adm. Code 218.411(a), (c) and (d).

35. By failing to certify compliance with or exemption from the Board's requirements for lithographic printing, Victor Envelope violated Sections 218.411(a), (c) and (d) of the O/M Emission regulations, 35 Ill. Adm. Code 218.411(a), (c) and (d).

36. By violating Sections 218.411(a), (c) and (d) of the O/M Emission regulations, 35 Ill. Adm. Code Sections 218.411(a), (c) and (d), Victor Envelope thereby also violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against the Respondent, VICTOR ENVELOPE COMPANY, for the following relief:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a)(2010), and Sections 218.411(a), (c) and (d) of the O/M Emission regulations, 35 Ill. Adm. Code 218.411(a), (c) and (d);
3. Ordering the Respondent to cease and desist from any further violations of Section 9(a) of the Act, 415 ILCS 5/9(a)(2010), and Sections 218.411(a), (c) and (d) of the O/M Emission regulations, 35 Ill. Adm. Code 218.411(a), (c) and (d);
4. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000.00) for each and every violation of the Act and pertinent regulations, with an additional

penalty of ten thousand dollars (\$10,000.00) for each day of violation;

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

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

COUNT VII
FAILURE TO SUBMIT FUGITIVE DUST PLAN

1-30. Complainant realleges and incorporates by reference herein paragraphs 1 through 30 of Count IV as paragraphs 1 through 30 of this Count VII.

31. Pursuant to authority granted under the Act, the Board has promulgated regulations limiting visible and particulate matter emissions, found at 35 Ill. Adm. Code, Part 212 (“VPM Emissions regulations”).

32. Section 212.302(a) of the VPM Emissions regulations, 35 Ill. Adm. Code 212.302(a), provides, in pertinent part, as follows:

Geographical Areas of Application

a) Sections 212.304 through 212.310 and 212.312 of this Subpart shall apply to all ... manufacturing operations (SIC major groups 20 through 39 except for those operations subject to Subpart S of this Part (Grain-Handling and Grain-Drying Operations) that are outside the areas defined in Section 212.324(a)(1) of this Part), ... which are located in the areas defined by the boundaries of the following townships, notwithstanding any political subdivisions contained therein, as the township boundaries were defined on October 1, 1979, in the following counties:

* * *
DuPage: Addison, Winfield, York
* * *

33. As an envelope manufacturing operation, Victor Envelope is an operation within SIC (Standard Industrial Classification) Major Group 35 - Industrial And Commercial

Machinery And Computer Equipment, Occupational Safety & Health Administration (“OSHA”) SIC Manual, Division D, Major Group 35, Industry Group 355, Code 3555. See

http://www.osha.gov/pls/imis/sic_manual.display?id=775&tab=description.

34. Section 212.309 of the VPM Emissions regulations, 35 Ill. Adm. Code 212.309, provides as follows:

Operating Program

- a) The emission units described in Sections 212.304 through 212.308 and Section 212.316 of this Subpart shall be operated under the provisions of an operating program, consistent with the requirements set forth in Sections 212.310 and 212.312 of this Subpart, and prepared by the owner or operator and submitted to the Agency for its review. Such operating program shall be designed to significantly reduce fugitive particulate matter emissions.

35. Beginning in 1979 through May 5, 2009, when Victor Envelope submitted its application for a FESOP, or a date or dates best known to Victor Envelope, Victor Envelope failed to submit a fugitive dust plan to Illinois EPA, as described by 35 Ill. Adm. Code 212.309.

36. By failing to timely submit a fugitive dust plan to Illinois EPA, Victor Envelope violated Section 212.309 of 35 Ill. Adm. Code 212.309.

37. By violating Sections 212.309 of the VPM Emissions regulations, 35 Ill. Adm. Code Sections 212.309, Victor Envelope thereby also violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against the Respondent, VICTOR ENVELOPE COMPANY, for the following relief:

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

2. Finding that Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a)(2010), and Section 212.309 of the VPM Emissions regulations, 35 Ill. Adm. Code 212.309;
3. Ordering the Respondent to cease and desist from any further violations of Section 9(a) of the Act, 415 ILCS 5/9(a)(2010), and Section 212.309 of the VPM Emissions regulations, 35 Ill. Adm. Code 212.309;
4. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000.00) for each and every violation of the Act and pertinent regulations, with an additional penalty of ten thousand dollars (\$10,000.00) for each day of violation;
5. Taxing all costs in this action, including, but not limited to, attorney, expert witness and consultant fees, against Respondent; and
6. Granting such other relief as the Board deems appropriate and just.

COUNT VIII
FAILURE TO PAY CONSTRUCTION PERMIT FEES

1-29. Complainant realleges and incorporates by reference herein paragraphs 1 through 23, and 25 through 30 of Count I as paragraphs 1 through 29 of this Count VIII.

30. Sections 9.12(a) and (j) of the Act, 415 ILCS 5/9.12(a) and (j) (2010), provide as follows:

- (a) An applicant for a new or revised air pollution construction permit shall pay a fee, as established in this Section, to the Agency at the time that he or she submits the application for a construction permit. Except as set forth below, the fee for each activity or category listed in this Section is separate and is cumulative with any other applicable fee listed in this Section.

*

*

*

- (j) If the owner or operator undertakes construction without obtaining an air pollution construction permit, the fee under this Section is

still required. Payment of the required fee does not preclude the Agency or the Attorney General or other authorized persons from pursuing enforcement against the applicant for failure to have an air pollution construction permit prior to commencing construction.

31. From July 1, 2003, the effective date of the amendment to the Act providing for construction permit fees, through the date of filing of this Complaint, or a date or dates better known to Victor Envelope, Victor Envelope failed to timely pay the applicable fee for a construction permit prior to constructing three (3) lithographic printing presses, one (1) flexographic printing press and one (1) solvent distillation unit.

32. By failing to timely pay applicable construction permit fees, Victor Envelope violated Sections 9.12(a) and (j) of the Act, 415 ILCS 5/9.12(a) and (j) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against the Respondent, VICTOR ENVELOPE COMPANY, for the following relief:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Sections 9.12(a) and (j) of the Act, 415 ILCS 5/9.12(a) and (j) (2010);
3. Ordering the Respondent to cease and desist from any further violations of Sections 9.12(a) and (j) of the Act, 415 ILCS 5/9.12(a) and (j)(2010);
4. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000.00) for each and every violation of the Act and pertinent regulations, with an additional penalty of ten thousand dollars (\$10,000.00) for each day of violation;
5. Taxing all costs in this action, including, but not limited to, attorney, expert

witness and consultant fees, against Respondent; and

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

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

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



ROSEMARIE CAZEAU, Chief
Environmental Bureau
Assistant Attorney General

Of Counsel:

JENNIFER A. VAN WIE
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington St., Suite 1800
Chicago, Illinois 60602
(312) 814-0609

CERTIFICATE OF SERVICE

I, JENNIFER A. VAN WIE, an Assistant Attorney General, certify that on the 23rd day of June 2011, I caused to be served by U.S. Certified Mail (return receipt requested), the foregoing Complaint, Stipulation and Proposal for Settlement, Motion for Relief from Hearing Requirement and Notice of Filing to the parties named on the attached Service List, by depositing same in postage prepaid envelopes with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois 60601.



JENNIFER A. VAN WIE
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602
(312) 814-0609

Service List

For Victor Envelope Company

Jennifer T. Nijman
Nijman Franzetti LLP
10 S. LaSalle St, Suite 3600
Chicago, IL 60603

Kenneth R. Seroka, CEO
Victor Envelope Company
301 Arthur Court
Bensenville, Illinois 60106

Illinois Environmental Protection Agency

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

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
LISA MADIGAN, Attorney General of the)	
State of Illinois,)	
)	
Complainant,)	
)	
v.)	PCB No. 2011 - 102
)	(Enforcement - Air)
VICTOR ENVELOPE COMPANY,)	
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 VICTOR ENVELOPE COMPANY ("Respondent" or "Victor Envelope"), ("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.* (2010), the Board Air Pollution regulations, and the Illinois EPA Air Pollution 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. On June 23, 2011, 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 (2010), 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 (2010).

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

4. At all times relevant to the Complaint, Victor Envelope owned and operated an envelope manufacturing facility which, in 1990, was re-located to 301 Arthur Court, Bensenville, DuPage County, Illinois, where it continues to operate currently ("Facility").

5. Victor Envelope cuts, folds and prints on various types of paper at the Facility to make envelopes.

6. From 1968-1972, Victor Envelope began operating at a facility located at 2101 South 17th Avenue, Broadview, Illinois. From 1973-1978, Victor Envelope was located at 437 Wrightwood Avenue, Elmhurst, Illinois, and from 1979-1990 was located at 934 N. Church Road in Elmhurst, Illinois. In 1990, Victor Envelope moved its operations and equipment to the Facility location, where it continues to operate currently.

B. Allegations of Non-Compliance

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

Count I: Construction of Emission Sources without a Permit, in violation of Section 9(b) of the Act, 415 ILCS 5/9(b) (2010), and Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142;

- Count II: Failure to Obtain a Clean Air Act Permit Program (“CAAPP”) Permit, in violation of Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b)(2010);
- Count III: Failure to Comply with New Source Review (“NSR”) Requirements, in violation of Section 9(a) of the Act, 415 ILCS 5/9(a)(2010), and Section 203.201 of the Board Major Source Regulations, 35 Ill. Adm. Code 203.201;
- Count IV: Failure to Submit Annual Emissions Reports, in violation of Section 9(a) of the Act, 415 ILCS 5/9(a)(2010), 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);
- Count V: Failure to Demonstrate Compliance with Flexographic Printing Regulations, in violation of Section 9(a) of the Act, 415 ILCS 5/9(a)(2010), and Sections 218.404(b)(1) and (c)(1) of the O/M Emission regulations, 35 Ill. Adm. Code 218.404(b)(1) and (c)(1);
- Count VI: Failure to Demonstrate Compliance with Lithographic Printing Regulations in violation of Section 9(a) of the Act, 415 ILCS 5/9(a)(2010), and Sections 218.411(a), (c) and (d) of the O/M Emission regulations, 35 Ill. Adm. Code 218.411(a), (c) and (d);
- Count VII: Failure to Submit Fugitive Dust Plan in violation of Section 9(a) of the Act, 415 ILCS 5/9(a)(2010), and Section 212.309 of the VPM Emissions regulations, 35 Ill. Adm. Code 212.309; and
- Count VIII: Failure to Pay Construction Permit Fees in violation of Sections 9.12(a) and (j) of the Act, 415 ILCS 5/9.12(a) and (j) (2010).

C. Non-Admission of Violations

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

D. Compliance Activities to Date

1. On May 5, 2009, Victor Envelope submitted a Federally Enforceable State Operating Permit (“FESOP”) application to the Illinois EPA.
2. On May 5, 2009, Victor Envelope submitted a fugitive dust plan to the Illinois EPA.
3. On September 3, 2009, Victor Envelope submitted Annual Emission Reports (“AERs”) for calendar years 2002 through 2008.
4. On October 7, 2009, Victor Envelope submitted the required certification of compliance for its flexographic printing lines.
5. On October 7, 2009, Victor Envelope submitted the required certification of compliance for its lithographic printing lines.

II. APPLICABILITY

This Stipulation shall apply to and be binding upon the Parties to the Stipulation. 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, Board regulations and Illinois EPA 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 (2010).

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

Section 33(c) of the Act, 415 ILCS 5/33(c) (2010), 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. The Illinois EPA's information gathering responsibilities were hindered by the Respondent's alleged violations.
2. There is social and economic benefit to the Facility.
3. Operation of the Facility was suitable for the area in which it occurred.
4. Obtaining the requisite construction and operating permits for the Facility and compliance with the terms of a permit and with the Act and applicable regulations is both technically practicable and economically reasonable.
5. On May 5, 2009, Respondent submitted a FESOP application to the Illinois EPA for the emission units at the Facility, in addition to other compliance activities noted in I.D above.

IV. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h) (2010), 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. Complainant alleges that Respondent constructed emission units without the requisite permits, failed to pay the requisite construction permit fees, has operated the Facility without the requisite CAAPP permit or FESOP permit and in violation of the New Source Review regulations since at least 2002; failed to timely demonstrate compliance with or

exemption from the flexographic and lithographic printing regulations; and failed to timely submit AERs. Respondent has disputed various aspects of the allegations.

2. Respondent has cooperated with the Illinois EPA since discovery of the violations.

3. The Respondent realized an economic benefit in avoided construction permit and air pollution site fees as a result of its alleged delay in compliance.

4. Complainant has determined, based upon the specific facts of this matter, that a penalty and avoided fee payment of Sixty Thousand Dollars (\$60,000.00) will serve to deter further violations and aid in future voluntary compliance with the Act, Board regulations and Illinois EPA regulations. This penalty includes the economic benefit realized by Respondent through avoided construction permit and air pollution site fees.

5. Respondent has no previously adjudicated violations of the Act.

6. Respondent asserts it voluntarily self-disclosed the violations at the Facility. The Complainant disputes that claim.

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

V. TERMS OF SETTLEMENT

A. Penalty and Avoided Fees

1. The Respondent shall pay a civil penalty and avoided fees payment totaling Sixty Thousand Dollars (\$60,000.00), as further set forth in paragraph V.C.1 and 2, herein, within thirty (30) days from the date the Board adopts and accepts this Stipulation.

B. 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

1. Payment of the avoided construction and air pollution site fees in the amount of Thirty-Five Thousand and Twenty-Five Dollars (\$35,025.00) required by this Stipulation shall be made by certified check or money order payable to the Illinois EPA for deposit into the Permit and Inspection Fund.

2. Payment of the remaining penalty of Twenty-Four Thousand Nine Hundred Seventy Five Dollars (\$24,975.00) shall be made by certified check or money order payable to the Illinois EPA for deposit into the Environmental Protection Trust Fund ("EPTF").

3. Payments shall be sent by first class mail and delivered to:

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

The case 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:

Jennifer A. Van Wie
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602

D. Future Compliance

1. Respondent shall at all times operate its Facility in compliance with the Act and applicable regulations, including timely filing Annual Emission Reports ("AERs") and any other required reports.

2. Respondent shall timely obtain all requisite construction and operating permits from the Illinois EPA in the future.

3. Respondent currently has pending with the Illinois EPA an application for a FESOP. Upon issuance of the FESOP, Respondent shall comply with all the terms and conditions of that permit.

4. 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.

5. 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, Board regulations and Illinois EPA regulations.

6. The Respondent shall cease and desist from future violations of the Act, Board regulations and Illinois EPA regulations that were the subject matter of the Complaint.

E. Release from Liability

In consideration of the Respondent's payment of the \$60,000.00 penalty and avoided fees and applicable interest, its commitment (by and through the execution of this Stipulation) to cease and desist as contained in Section V.D.6 above, its commitment (by and through the execution of this Stipulation) to comply with the terms of Section V.D.1-3, 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, Board regulations and Illinois EPA 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 June 23, 2011. 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. Notices

Any and all notices, except for penalty payments, shall be submitted as follows:

As to the Complainant

Jennifer A. Van Wie
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602

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

As to the Respondent

Jennifer Nijman
Nijman Franzetti, LLP
10 South LaSalle Street, Suite 3600
Chicago, Illinois 60603

Kenneth R. Seroka, CEO
Victor Envelope Company
301 Arthur Court
Bensenville, Illinois 60106

G. Enforcement and Modification of Stipulation

1. 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.

2. The Parties to the Stipulation 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 V.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 the Parties to the Stipulation.

H. 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.

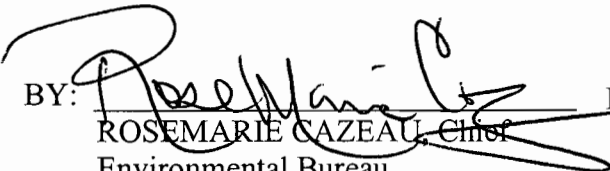
PEOPLE OF THE STATE OF ILLINOIS


LISA MADIGAN
Attorney General
State of Illinois

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

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

LISA BONNETT, Interim Director
Illinois Environmental Protection Agency

BY: 
ROSEMARIE GAZEAU, Chief
Environmental Bureau
Assistant Attorney General

BY: 
JOHN J. KIM
Chief Legal Counsel

DATE: 6/17/11

DATE: 6/16/11

RESPONDENT

VICTOR ENVELOPE COMPANY

BY: Henry R. Senta

Its: CEO

DATE: 6-15-11

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
 LISA MADIGAN, Attorney General of the)
 State of Illinois,)
)
 Complainant,)
)
 v.)
)
 VICTOR ENVELOPE COMPANY,)
 an Illinois corporation,)
)
 Respondent.)

PCB No. 2011 - 102
(Enforcement - Air)

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) (2010), moves that the Illinois Pollution Control Board (“Board”) grant the parties in the above-captioned matter relief from the hearing requirement imposed by Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2010). In support of this motion, Complainant states as follows:

1. The Complaint in this matter alleges violations of Sections 9(a) and (b), 39.5(6)(b), and 9.12(a) and (j) of the Act, 415 ILCS 5/9(a) and (b), 39.5(6)(b), and 9.12(a) and (j) (2010), Sections 201.142 and 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142 and 201.302(a), Section 203.201 of the Board Major Source Regulations, 35 Ill. Adm. Code 203.201, Section 254.132(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a), Sections 218.404(b)(1) and (c)(1), and 218.411(a), (c) and (d) of the O/M Emission regulations, 35 Ill. Adm. Code 218.404(b)(1) and (c)(1) and 218.411(a), (c) and (d), and Section 212.309 of the VPM Emissions regulations, 35 Ill. Adm. Code 212.309.

2. Complainant is filing the Complaint with the Board simultaneous with this

Motion and a Stipulation and Proposal for Settlement.

3. The parties have reached agreement on all outstanding issues in this matter.

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

5. 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) (2010).

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) (2010).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN
Attorney General
State of Illinois

BY:



JENNIFER A. VAN WIE
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602
(312) 814-0609

DATE: June 23, 2011

CERTIFICATE OF SERVICE

I, JENNIFER A. VAN WIE, an Assistant Attorney General, certify that on the 23rd day of June 2011, I caused to be served by U.S. Certified Mail (return receipt requested), the foregoing Complaint, Stipulation and Proposal for Settlement, Motion for Relief from Hearing Requirement and Notice of Filing to the parties named on the attached Service List, by depositing same in postage prepaid envelopes with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois 60601.



JENNIFER A. VAN WIE
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602
(312) 814-0609