

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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AUG 15 2011

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
vs.)
)
WASTE HAULING LANDFILL, INC.,)
et al.,)
)
Respondents.)

PCB No. 10-9
(Cost recovery)

ORIGINAL

NOTICE OF FILING

To: Attached Service List

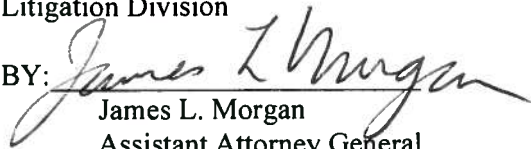
PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois, a MOTION FOR RELIEF FROM HEARING REQUIREMENT and a STIPULATION AND PROPOSAL FOR SETTLEMENT, copies of which are attached hereto and herewith served upon you.

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: 
James L. Morgan
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/524-7506
Dated: August 15, 2011

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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, with the concurrence of Respondent COMBE LABORATORIES, INC., 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 grant the Complainant and Respondent 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 has reached an agreement with Respondent resolving the claims in the Second Amended Complaint against the Respondent.
2. This agreement is presented to the Board in a Stipulation and Proposal for Settlement for Respondent, filed contemporaneously with this motion.
3. The Complainant and the Respondent 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).
4. A similar request was previously submitted with regard to five other Stipulations and Proposals for Settlement. Those requests were approved and no requests for hearing were made on those requests.

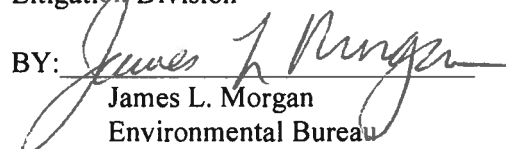
WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby requests that the Board grant this motion for relief from the hearing requirement set forth in Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2010).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS
LISA MADIGAN
ATTORNEY GENERAL

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

BY:


James L. Morgan
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
217/524-7506
Dated: August 15, 2011

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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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 Combe Laboratories, Inc. ("Respondent"), (collectively the "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 including without limitation any proceeding regarding the violations of the Illinois Environmental Protection Act, 415 ILCS 5/1 *et seq.* (2006), and the Board's Regulations, . It is the intent of the Parties to the Stipulation that it be a final adjudication of this matter.

I. JURISDICTIONAL STATEMENT

1. The Board has jurisdiction of the subject matter herein and of the parties consenting hereto pursuant to the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/1 *et.*

seq. (2008).

II. STATEMENT OF FACTS

A. Parties

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 an Illinois corporation that is authorized to transact business in the State of Illinois.

4. At all times relevant to the Complaint, Respondent owned and operated a manufacturing facility located at 200 Shelhouse Drive, Rantoul, Champaign County, Illinois (the “Rantoul Plant”).

5. On July 29, 2009, a Complaint was filed on behalf of the People of the State of Illinois (the “State”) 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 as well as Waste Hauling Landfill, Inc., Jerry Camfield, A.E. Staley Manufacturing Co., Archer Daniels Midland, Inc., Aramark Uniform Services, Inc., Bell Sports, Inc., Borden Chemical Co., Bridgestone/Firestone, Inc., Climate Control, Inc., Caterpillar, Inc., General Electric Railcar Services Corporation, P & H Manufacturing, Inc., Trinity Rail Group, Inc., Triple S Refining Corporation, and Zexel Illinois, Inc. (Other Named Respondents”).

6. The Complaint alleged that Respondent as well as Other Named Respondents sent wastes to the Waste Hauling Landfill in Macon County, Illinois and that these wastes allegedly contained hazardous substances. In the Complaint, the Complainant seeks recovery of removal

costs, as defined by the Act, associated with the releases and threatened releases of hazardous substances. In its Complaint as amended on September 14, 2009, the Complainant specifically alleged liability pursuant to Section 22.2(f)(1)-(3) of the Act.

7. During the period of April 1988 to March 1992 Respondent disposed of some of the wastes generated by the Rantoul Plant's operations at the Waste Hauling Landfill in Decatur, Macon County, Illinois.

8. Respondent had been issued waste stream authorizations ("WSA") 880138 and 880338. According to the applications submitted by Respondent, WSA 880138 contained unsold product and WSA 880338 contained unsold product, both of which were classified as "non-hazardous."

9. According to special waste manifests submitted on behalf of Respondent, 379 cubic yards of wastes generated by the Rantoul Plant were disposed of at the Waste Hauling Landfill.

10. During the period of 2001 to 2009, Illinois EPA conducted removal actions at the Waste Hauling Landfill to address deteriorating conditions at the Waste Hauling Landfill, including numerous areas of erosion of the cover, leachate seeps, and periodic inspections.

11. Illinois EPA incurred costs of Three Million Dollars (\$3,000,000.00) in performing these removal actions.

III. APPLICABILITY

This Stipulation shall apply to and be binding upon the Parties to the Stipulation, and any affiliate, 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 affiliates, officers, directors, agents, employees or successors or assigns to take such action as shall be required to comply with the provisions of this Stipulation.

IV. TERMS OF SETTLEMENT

A. No Admission of Liability

12. Respondent admits the jurisdictional allegations in this Stipulation and neither admits nor denies the factual allegations in this Stipulation.

13. The Respondent neither admits nor denies violations alleged in the Complaint filed in this matter and referenced herein.

B. Removal Costs Payment

14. The Respondent shall pay the sum of Twelve Thousand Three Hundred Dollars (\$12,300.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation to reimburse Illinois EPA for removal costs incurred at the Waste Hauling Landfill.

C. Attorneys' Fees

15. The Respondent shall pay the sum of Two Hundred and Seventy-Five Dollars (\$275.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation to reimburse the Attorney General for the costs incurred in this litigation.

D. Payment Procedures

16. The payment required by this Stipulation to be made to Illinois EPA shall be made by certified check or money order payable to the Illinois EPA for deposit into the Hazardous Waste Fund. The Payment 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 each certified check or money order and any transmittal letter shall be sent to the Attorney General at the address in paragraph 2 below.

17. The payment required by this Stipulation to be made to the Attorney General shall be made by certified check or money order payable to the "Attorney General's State Projects and Court Ordered Distribution Fund" and designated for deposit in the "801 Fund." Such payment may be by certified check or money order and shall be sent by first class mail and delivered to:

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

The name, case number and the Respondent's federal tax identification number shall appear on the face of the certified check or money order.

E. Release from Liability

18. Effective upon the Board's approval of this Stipulation and in consideration of the Respondent's payment of the \$12,575.00 for reimbursement of removal costs and attorneys' fees, the Complainant releases, waives and discharges the Respondent from any further liability for removal costs incurred by Illinois EPA at the Waste Hauling Landfill that were incurred at anytime prior to the date of effectiveness of the Stipulation or that otherwise arise out of the subject matter of the Complaint herein. The release set forth above does not extend to any other

matters. 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.

V. GENERAL PROVISIONS

A. Definitions.

19. Unless defined by the Act, all words, terms, and phrases contained in this Stipulation have their ordinary meaning.

20. Unless specified otherwise, the Complaint referenced herein is to the amended Complaint filed by the Complainant on September 14, 2009.

B. Correspondence, Reports and Other Documents

21. Any and all correspondence, reports and any other documents required under this Stipulation, except for payments pursuant to Sections IV.D ("Payment Procedures") of this

Stipulation shall be submitted as follows:

As to the Complainant
James Morgan, Esq.
Assistant Attorney General
Environmental Bureau
500 South Second Street
Springfield, Illinois 62702

As to the Respondent
Theresa Duckett, Esq.
Locke Lord Bissell & Liddell LLP
111 South Wacker Drive
Chicago, Illinois 60606

C. Enforcement of Stipulation

22. 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.

23. The Parties to the Stipulation agree that notice of any subsequent proceeding to enforce the Board Order approving and accepting this Stipulation and Proposal for Settlement may be made by mail and waive any requirement of service of process.

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

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

D. Modification of Stipulation.

26. The Parties to the Stipulation may, by mutual written consent, agree to 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.(C). 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.

E. Execution of Stipulation

27. 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.

F. Entire Agreement.

28. This Stipulation constitutes the entire agreement between the Complainant and the Respondent.


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, THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

LISA MADIGAN
Attorney General
State of Illinois

DOUGLAS P. SCOTT, 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: 7/15/11

DATE: 7/13/11

COMBE LABORATORIES, INC.

BY: 

DATE: 7-28-11

Name: DOUGLAS M. MCBRAITNE

Title: PRESIDENT

CERTIFICATE OF SERVICE

I hereby certify that I did on the 15th day of August, 2011, send by First Class Mail, with postage thereon fully prepaid, a true and correct copy of the instruments entitled Notice of Filing, Motion for Relief from Hearing Requirement, and Stipulation and Proposal for Settlement

TO: ARAMARK UNIFORM SERVICES, INC.
c/o Jennifer Nijman
Nijman Franzetti LLP
10 South LaSalle St., Suite 3600
Chicago, IL 60603

BELL SPORTS, INC.
c/o John E. Collins
Husch Blackwell Sanders, LLP
190 Carondelet Plaza, Suite 600
St. Louis, MO 63105

A. E. STALEY MANUFACTURING CO., *n/k/a Tate & Lyle*
c/o Jeryl Olson, James Curtis and Elizabeth Leifel Ash
Seyfarth Shaw
131 South Dearborn St., Suite 2400
Chicago, IL 60603

BORDEN CHEMICAL CO.
c/o Matthew Larson
Shook Hardy & Bacon
2555 Grand Boulevard
Kansas City, MO 64108

ARCHER DANIELS MIDLAND, INC.
C/o Lee Cunningham, Counsel
4666 Faries Parkway
P.O. Box 1470
Decatur, IL 62526

CATERPILLAR, INC.
c/o Kevin Desharnais and Jennifer Simon
Mayer Brown LLP
71 South Wacker Drive
Chicago, IL 60606-4637

CLIMATE CONTROL, INC.
c/o Edward Q. Costa
Samuels, Miller, Schroeder, Jackson & Sly
P.O. BOX 1400
225 N. Water Street, Suite 301
Decatur, IL 62525-1400

GENERAL ELECTRIC RAILCAR SERVICES
CORPORATION
c/o Kirk McFarlane
Counsel, MidAtlantic/Southeast/Western Regions
640 Freedom Business Center
King of Prussia, PA 19406

COMBE LABORATORIES, INC.
c/o Theresa Duckett
Locke, Lord Bissell & Liddell
111 S. Wacker Drive
Chicago, IL 60606

P & H MANUFACTURING, INC.
c/o Edward Dwyer
Hodge Dwyer & Driver

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Pollution Control Board

ORIGINAL

3150 Roland Avenue
P.O. Box 5776
Springfield, IL 62705-5776

TRINITY RAIL GROUP, INC.
c/o Kristin Parker and Michael Dolan
Jones Day
77 W. Wacker Street
Chicago, IL 60601-1692

TRIPLE S REFINING CORPORATION
c/o Jeffrey J. Freeman
Kirkland & Ellis
300 North LaSalle St.
Chicago, IL 60654-3406

BRIDGESTONE FIRESTONE, INC.
c/o Heidi Hughes Bumpers
Jones Day
51 Louisiana Ave. N.W.
Washington, DC 20001

ZEXEL ILLINOIS, INC
c/o Jerry Maynard
Dykema
10 S. Wacker Drive, Suite 2300
Chicago, IL 60606

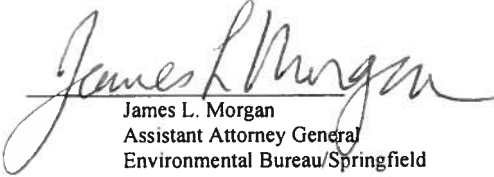
BORG WARNER
c/o Joshua More
Schiff Hardin
233 S. Wacker Drive
Chicago, IL 60606

Carol Webb, Esq.
Hearing Officer
IPCB
1021 North Grand Avenue East
P.O. Box 19274
Springfield, IL 62794-9274

Service has not been accepted by:
WASTE HAULING LANDFILL, INC.
JERRY CAMFIELD, SR.

and the original and ten copies were sent to:

John T Therriault
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph, Suite 11-500
Chicago, IL 60601


James L. Morgan
Assistant Attorney General
Environmental Bureau/Springfield
500 South Second Street
Springfield, IL 62706