

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
 by LISA MADIGAN, Attorney General)
 of the State of Illinois,)
)
 Complainant,)
)
 v.)
)
 FORBO ADHESIVES, LLC, a Delaware)
 limited liability company,)
)
 Respondent.)

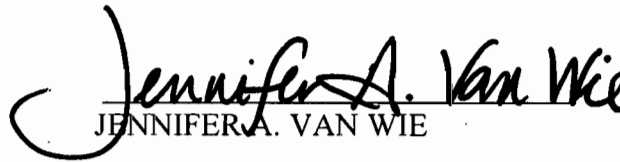
PCB No. 12-
(Enforcement - RCRA)

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, 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

Dated: August 31, 2011

Jennifer A. Van Wie
Assistant Attorney General
Environmental Bureau
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THIS FILING IS SUBMITTED ON RECYCLED PAPER

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4. Forbo is a division of Forbo International SA, a multinational company headquartered in Switzerland.
5. Forbo manufactures polyurethane adhesives at its facility located at 6352 E. Collins Road, Morris, Grundy County, Illinois ("Facility").
6. Forbo is a large quantity generator of hazardous waste and operates a 90-day hazardous waste storage area at the Facility for management of hazardous waste prior to transportation and disposal at off-site treatment, storage and disposal facilities.
7. Forbo generates hazardous wastes as a result of reactor cleaning operations at the Facility.
8. Hazardous wastes generally include spent solvent from cleaning operations assigned waste codes F005 (toluene), F003 (xylene and ethyl benzene), and D001 (ignitability); filters soaked with toluene and polyurethane (waste codes F005 and D001); laboratory chemical waste (waste code D001); and reactor lockup cleanout waste (waste codes D001 and F005) (collectively "Hazardous Wastes").
9. Hazardous Wastes are contained in 55-gallon drums and then moved to the hazardous waste storage area at the Facility.
10. On June 22, 2010, the Illinois EPA conducted a Resource Conservation and Recovery Act ("RCRA") Compliance Evaluation Inspection ("CEI") at the Facility.
11. At the June 22, 2010 CEI, the Illinois EPA inspector observed at the Facility obstructed aisle space, unlabeled drums of Hazardous Wastes, undated containers of Hazardous Wastes, and open containers of Hazardous Wastes.
12. At the June 22, 2010 CEI, the Illinois EPA inspector observed at the Facility five (5) drums of Hazardous Waste in the hazardous waste storage area were dated with an

accumulation date greater than 90 days prior to the CEI. The Illinois EPA inspector also observed three (3) drums at the Facility which were not marked with an accumulation start date.

13. At the June 22, 2010 CEI, the Illinois EPA inspector observed three additional drums at the Facility which were positioned in such a way that prevented inspection for labeling, marking, leaks or deterioration.

14. At the June 22, 2010 CEI, the Illinois EPA inspector documented the following:

- a. Forbo was not conducting weekly inspections of the hazardous waste storage area;
- b. Forbo did not maintain waste stream determination documentation in the operating record; and
- c. Forbo's contingency plan had the following deficiencies:
 - i. does not contain the name of the current emergency coordinator;
 - ii. does not contain evacuation routes; and
 - iii. does not document that the contingency plan has been sent to the required emergency services agencies.

15. On August 17, 2010, the Illinois EPA sent a violation notice ("VN") to Forbo for the alleged violations found during the June 22, 2010 CEI.

16. On September 24, 2010, Forbo sent the Illinois EPA a letter summarizing the corrective actions taken in response to the August 17, 2010 VN.

17. In the September 24, 2010 letter to the Illinois EPA, Forbo admitted that five (5) containers of hazardous waste had remained at the Facility for more than 90 days.

18. On December 2, 2010, the Illinois EPA sent a second VN to Forbo based on a record review of required documents.

19. The December 2, 2010 VN cited Forbo for conducting a hazardous waste storage operation without a RCRA permit and for violations of the requirements for hazardous waste

management, including:

- a. general waste analysis;
- b. security;
- c. general inspection requirements (written schedule);
- d. required aisle space;
- e. inspections;
- f. content and copies of the contingency plan;
- g. operating record;
- h. annual report;
- i. closure plan;
- j. post-closure care plan; and
- k. cost estimates for closure and post-closure care.

20. On February 28, 2011, Forbo submitted a RCRA Closure Plan to the Illinois EPA for its Facility.

21. On May 11, 2011, the Illinois EPA approved the RCRA Closure Plan Forbo submitted on February 28, 2011.

22. Section 21(f) of the Act, 415 ILCS 5/21(f) (2010), 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 for the site issued by the Agency under subsection (d) of Section 39 of this Act, or in violation of any condition imposed by such permit, including periodic reports and full access to adequate records and the inspection of facilities, as may be necessary to assure compliance with this Act and with regulations and standards adopted thereunder; or
- (2) in violation of any regulations or standards adopted by the Board under this Act; or

* * *

23. 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.

24. Forbo is a "person" as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2010).

25. Section 722.110(g) of the Illinois Pollution Control Board's ("Board") Waste Disposal Regulations, 35 Ill. Adm. Code 722.110(g), provides as follows:

Purpose, Scope, and Applicability

* * *

g) A person that generates a hazardous waste, as defined by 35 Ill. Adm. Code 721, is subject to the compliance requirements and penalties prescribed in Title VIII and XII of the Environmental Protection Act if that person does not comply with this Part.

* * *

26. Section 721.102 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 721.102, provides, in pertinent part, as follows:

Definition of Solid Waste

a) Solid waste.

1) A solid waste is any discarded material that is not excluded by Section 721.104(a) or that is not excluded pursuant to 35 Ill. Adm. Code 720.130 and 720.131.

2) A discarded material is any material that is described as follows:

A) Abandoned, as explained in subsection (b) of this Section;

* * *

- b) A material is a solid waste if it is abandoned in one of the following ways:
 - 1) It is disposed of;
 - 2) It is burned or incinerated; or
 - 3) It is accumulated, stored, or treated (but not recycled) before or in lieu of being abandoned by being disposed of, burned, or incinerated.

27. The Hazardous Wastes contained in 55-gallon drums at the Facility meet the definition of 'discarded material' set forth in Section 721.102(a)(2) and (b)(3) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 721.102(a)(2) and (b)(3), because they were accumulated and stored at the Facility in lieu of being abandoned by being disposed of, burned, or incinerated.

28. As a discarded material, the Hazardous Wastes contained in 55-gallon drums at the Facility are 'solid waste', as that term is defined in Section 721.102(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 721.102(a), as they are not excluded pursuant to Section 721.104(a), 35 Ill. Adm. Code 721.104(a), or Sections 721.130 and 721.131, 35 Ill. Adm. Code 721.130 and 721.131.

29. Section 721.103 of the Board Waste Disposal Regulations, 35 Ill. Adm. 721.103, provides, in pertinent part, as follows:

Definition of Hazardous Waste

- a) A solid waste, as defined in Section 721.102, is a hazardous waste if the following is true of the waste:
 - 1) It is not excluded from regulation as a hazardous waste under Section 721.104(b); and

- 2) It meets any of the following criteria:
 - A) It exhibits any of the characteristics of hazardous waste identified in Subpart C of this Part...
 - B) It is listed in Subpart D of this Part and has not been excluded from the lists in Subpart D of this Part under 35 Ill. Adm. Code 720.120 and 720.122.
 - * * *
 - D) It is a mixture of solid waste and one or more hazardous wastes listed in Subpart D of this Part and has not been excluded from this subsection (a)(2) pursuant to 35 Ill. Adm. Code 720.120 and 720.122, subsection (g) of this Section, or subsection (h) of this Section;
 - * * *

30. Section 721.121(b) of Subpart C of Part 721 of the Board Waste Disposal

Regulations, 35 Ill. Adm. Code 721.121(b), provides, in pertinent part, as follows:

Characteristic of Ignitability

* * *

- b) A solid waste that exhibits the characteristic of ignitability has the USEPA hazardous waste number of D001.

31. Section 721.131 of Subpart D of Part 721 of the Board Waste Disposal

Regulations, 35 Ill Adm. Code 721.131, provides, in pertinent part, as follows:

Hazardous Wastes from Nonspecific Sources

- a) The following solid wastes are listed hazardous wastes from non-specific sources, unless they are excluded under 35 Ill. Adm. Code 720.120 and 720.122 and listed in Appendix I of this Part.

USEPA Hazardous Waste No.	Industry and Hazardous Waste
---------------------------	------------------------------

* * *

F003 The following spent non-halogenated solvents: xylene, ethyl

benzene, ...; all spent solvent mixtures and blends containing, before use, only the above spent non-halogenated solvents; and all spent solvent mixtures and blends containing, before use, one or more of the above non-halogenated solvents and a total of ten percent or more (by volume) of one or more of those solvents listed in F001, F002, F004, or F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures.

* * *

F005

The following spent non-halogenated solvents: toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, benzene, 2-ethoxyethanol, and 2-nitropropane; all spent solvent mixtures and blends, containing, before use, a total of ten percent or more (by volume) of one or more of the above non-halogenated solvents or those solvents listed in F001, F002, or F004; and still bottoms from the recovery of these spent solvents and spent solvent mixtures.

* * *

32. The Hazardous Wastes generated and stored as a result of reactor cleaning operations by Forbo are listed hazardous wastes with United States Environmental Protection Agency ("USEPA") Hazardous Waste Numbers F003, F005 and D001.

33. Sections 703.121(a) and (b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 703.121(a) and (b), provide, 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;

* * *

- b) An owner or operator of a HWM unit must have permits during the active life (including the closure period) of the unit...

34. Section 702.110 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 720.110, provides, in pertinent part, the following definitions:

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

"Hazardous waste" (RCRA) means a hazardous waste as defined in 35 Ill. Adm. Code 721.103.

"Storage" (RCRA) means the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.

"RCRA permit" (RCRA) means a permit required pursuant to Section 21(f) of the Act [415 ILCS 5/21(f)].

"Hazardous waste management facility" or "HWM facility" (RCRA) means all contiguous land and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units (for example, one or more landfills, surface impoundments, or combinations of them).

"Owner or operator" means the owner or operator of any facility or activity subject to regulation under the RCRA... program.

"Permit" means an authorization, license, or equivalent control document issued to implement the requirements of this Part and 35 Ill. Adm. Code 703, 704, and 705. "Permit" includes RCRA permit by rule (35 Ill. Adm. Code 703.141), ...

35. As a result of Forbo's operations at the Facility, Forbo was and is a "person" conducting a "hazardous waste storage" operation without a "RCRA permit" at a "hazardous waste management facility", as those terms are defined in Section 702.110 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 702.110.

36. From at least June 22, 2010, or a date better know to Forbo, Forbo was the "owner or operator" of a "HWM" unit at the Facility, as those terms are defined in Section 702.110 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 702.110.

37. From at least June 22, 2010, and continuing through the date of filing of this

Complaint, or a date better known to Forbo, Forbo conducted a hazardous waste storage operation at the Facility.

38. Forbo was required by Section 21(f)(1) of the Act, 415 ILCS 5/21(f)(1) (2010), and Sections 703.121(a) and (b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 703.121(a) and (b), to obtain a RCRA permit in order to conduct a hazardous waste storage operation at the Facility.

39. From at least June 22, 2010, and continuing through the date of filing of this Complaint, Forbo has failed to obtain a RCRA permit for the Facility, in violation of Section 21(f)(1) of the Act, 415 ILCS 5/21(f)(1) (2010), and Sections 703.121(a) and (b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 703.121(a) and (b).

40. By violating Sections 703.121(a) and (b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 703.121(a) and (b), Forbo thereby, also violated Section 21(f)(2) of the Act, 415 ILCS 21(f)(2) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Pollution Control Board enter an order against Respondent, FORBO ADHESIVES, LLC, with respect to Count I:

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

2. Finding that Respondent has violated Sections 21(f)(1) and (2) of the Act, 415 ILCS 5/21(f)(1) and (2) (2010), and Sections 703.121(a) and (b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 703.121(a) and (b);

3. Ordering Respondent to close the waste storage areas at the Facility in accordance with the Illinois EPA-approved RCRA Closure Plan and take immediate action to correct the

violations of Sections 21(f)(1) and (2) of the Act, 415 ILCS 5/21(f)(1) and (2) (2010), and Section 703.121(a) and (b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 703.121(a) and (b);

4. Assessing a civil penalty against the Respondent of Twenty-Five Thousand Dollars per day of violation of Section 21(f)(1) and (2) of the Act, 415 ILCS 5/21(f)(1) and (2) (2010), and Section 703.121(a) and (b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 703.121(a) and (b);

5. Taxing all costs of this action to the Respondent pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

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

COUNT II
FAILURE TO COMPLY WITH HAZARDOUS WASTE
ACCUMULATION LIMITATIONS

1. This count is brought on behalf of THE PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion, pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2010).

2-37. Complainant re-alleges and incorporates by reference herein paragraphs 2 through 37 of Count I as paragraphs 2 through 37 of this Count II.

38. Section 722.134(b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 722.134(b), provides, in pertinent part, as follows:

Accumulation Time

* * *

- b) A generator that accumulates hazardous waste for more than 90 days is an operator of a storage facility. Such a generator is subject to the requirements of 35 Ill. Adm. Code 724 and 725 and the permit requirements of 35 Ill. Adm. Code 702, 703, and 705, unless the generator has been granted an extension of the 90-day period.

39. Information obtained during the June 22, 2010 CEI and included in Forbo's letter to the Illinois EPA dated September 24, 2010, indicates that at least five (5) containers of hazardous waste had remained at the Facility for more than 90 days.

40. By accumulating hazardous waste for more than 90 days at the Facility, Forbo became an operator of a storage facility, pursuant to Section 722.134(b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 722.134(b).

41. As an operator of a storage facility, Forbo is subject to the requirements of 35 Ill. Adm. Code Parts 724 and 725 of the Board Waste Disposal Regulations and the permit requirements of 35 Ill. Adm. Code Part 703.

42. From at least June 22, 2010 through the date of filing of this Complaint, or on a date better known to the Respondent, Forbo stored hazardous waste at the Facility exceeding the 90 day time period, in violation of Section 722.134(b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 722.134(b).

43. By violating Section 722.134(b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 722.134(b), Forbo thereby also violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Pollution Control Board enter an order against Respondent, FORBO

ADHESIVES, LLC, with respect to Count II:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations contained herein;
2. Finding that Respondent has violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2010), and Section 722.134(b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 722.134(b);
3. Ordering Respondent to close the waste storage areas at the Facility in accordance with the Illinois EPA-approved RCRA Closure Plan and take immediate action to correct the violations of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2010), and Section 722.134(b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 722.134(b);
4. Assessing a civil penalty against the Respondent of Twenty-Five Thousand Dollars per day of violation of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2010), and Section 722.134(b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 722.134(b);
5. Taxing all costs of this action to the Respondent pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and
6. Granting such other relief as the Board deems appropriate and just.

COUNT III
FAILURE TO COMPLY WITH HAZARDOUS WASTE MANAGEMENT
REQUIREMENTS - GENERAL FACILITY STANDARDS

1. This count is brought on behalf of THE PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion, pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2010).

2-32. Complainant re-alleges and incorporates by reference herein paragraphs 2 through 32 of Count I as paragraphs 2 through 32 of this Count III.

33-36. Complainant re-alleges and incorporates by reference herein paragraphs 38 through 41 of Count II as paragraphs 33 through 36 of this Count III.

37. Section 725.113(a) and (b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.113(a) and (b), provide, in pertinent part, as follows:

General Waste Analysis

a) Waste analysis:

- 1) Before an owner or operator treats, stores, or disposes of any hazardous wastes, or non-hazardous wastes if applicable under Section 725.213(d), the owner or operator shall obtain a detailed chemical and physical analysis of a representative sample of the wastes. At a minimum, the analysis must contain all the information that must be known to treat, store, or dispose of the waste in accordance with this Part and 35 Ill. Adm. Code 728.
- 2) The analysis may include data developed under 35 Ill. Adm. Code 721 and existing published or documented data on the hazardous waste or on waste generated from similar processes.
- 3) The analysis must be repeated as necessary to ensure that it is accurate and up to date.

* * *

b) The owner or operator must develop and follow a written waste analysis plan that describes the procedures that the owner or operator will carry out to comply with subsection (a) of this Section...

38. From at least June 22, 2010 through the date of filing of this Complaint, or on a date better known to the Respondent, Forbo failed to develop a written waste analysis plan that describes the procedures that it would carry out to comply with Section 725.113(a) of the Board

Waste Disposal Regulations, 35 Ill. Adm. Code 725.113(a), in violation of Section 725.113(b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.113(b).

39. Section 725.114(c) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.114(c), provides as follows:

Security

- c) Unless exempt under subsection (a)(1) or (a)(2) of this Section, a sign with the legend, "Danger – Unauthorized Personnel Keep Out," must be posted at each entrance to the active portion of a facility and at other locations in sufficient numbers to be seen from any approach to this active portion. The sign must be legible from a distance of at least 25 feet. Existing signs with a legend other than "Danger – Unauthorized Personnel Keep Out" may be used if the legend on the sign indicates that only authorized personnel are allowed to enter the active portion and that entry onto the active portion can be dangerous.

40. From at least June 22, 2010 through the date of filing of this Complaint, or on a date better known to the Respondent, Forbo failed to control unauthorized access or post signs with the legend, "Danger – Unauthorized Personnel Keep Out" at appropriate locations at the Facility, in violation of Section 725.114(c) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.114(c).

41. Section 725.115(b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.115(b), provides, in pertinent part, as follows:

General Inspection Requirements

- b) Written schedule.
 - 1) The owner or operator must develop and follow a written schedule for inspecting all monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment (such as dikes and sump pumps) that are important to preventing, detecting, or responding to environmental or human health hazards.

- 2) The owner or operator must keep this schedule at the facility.
- 3) The schedule must identify the types of problems (e.g., malfunctions or deterioration) that are to be looked for during the inspection (e.g., inoperative sump pump, leaking fitting, eroding dike, etc.).
- 4) The frequency of inspection may vary for the items on the schedule. However, the frequency should be based on the rate of deterioration of the equipment and the probability of an environmental or human health incident if the deterioration, malfunction, or operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use, except for the owner or operator of a Performance Track member facility, which must inspect at least once each month after approval by the Agency, as described in subsection (b)(5) of this Section. At a minimum, the inspection schedule must include the items and frequencies called for in Sections 725.274, 725.293, 725.295, 725.326, 725.360, 725.378, 725.404, 725.447, 725.477, 725.503, 725.933, 725.952, 725.953, 725.958, and 725.984 through 725.990, where applicable.

* * *

42. From at least June 22, 2010 through the date of filing of this Complaint, or on a date better known to the Respondent, Forbo failed to develop and follow a written schedule for inspecting the appropriate equipment and devices, in violation of Section 725.115(c) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.115(c).

43. By violating Sections 725.113(b), 725.114(c) and 725.115(b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.113(b), 725.114(c) and 725.115(b), Forbo thereby also violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Pollution Control Board enter an order against Respondent, FORBO ADHESIVES, LLC, with respect to Count III:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations contained herein;
2. Finding that Respondent has violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2010), and Sections 725.113(b), 725.114(c) and 725.115(b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.113(b), 725.114(c) and 725.115(b);
3. Ordering Respondent to close the waste storage areas at the Facility in accordance with the Illinois EPA-approved RCRA Closure Plan and take immediate action to correct the violations of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2010), and Sections 725.113(b), 725.114(c) and 725.115(b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.113(b), 725.114(c) and 725.115(b);
4. Assessing a civil penalty against the Respondent of Twenty-Five Thousand Dollars per day of violation of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2010), and Sections 725.113(b), 725.114(c) and 725.115(b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.113(b), 725.114(c) and 725.115(b);
5. Taxing all costs of this action to the Respondent pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and
6. Granting such other relief as the Board deems appropriate and just.

COUNT IV

**FAILURE TO COMPLY WITH HAZARDOUS WASTE MANAGEMENT
REQUIREMENTS - PREPAREDNESS AND PREVENTION AND USE AND
MANAGEMENT OF CONTAINERS**

1-36. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 36 of Count III as paragraphs 1 through 36 of this Count IV.

37. Section 725.135 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code

725.135, provides as follows:

Required Aisle Space

The owner or operator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

38. From at least June 22, 2010 through the date of filing of this Complaint, or on a date better known to the Respondent, Forbo failed to maintain aisle space to allow the unobstructed movement of emergency personnel and equipment, in violation of Section 725.135 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.135.

39. Section 725.274 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.274, provides, in pertinent part, as follows:

Inspections

At least weekly the owner or operator must inspect areas where containers are stored ... The owner or operator must look for leaking containers and for deterioration of containers caused by corrosion or other factors.

40. From at least June 22, 2010 through the date of filing of this Complaint, or on a date better known to the Respondent, Forbo failed to inspect areas where containers are stored for leaks and deterioration on a weekly basis, in violation of Section 725.274 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.274.

41. By violating Sections 725.135 and 725.274 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.135 and 725.274, Forbo thereby also violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Pollution Control Board enter an order against Respondent, FORBO

ADHESIVES, LLC, with respect to Count IV:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations contained herein;
2. Finding that Respondent has violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2010), and Sections 725.135 and 725.274 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.135 and 725.274;
3. Ordering Respondent to close the waste storage areas at the Facility in accordance with the Illinois EPA-approved RCRA Closure Plan and take immediate action to correct the violations of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2010), and Sections 725.135 and 725.274 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.135 and 725.274;
4. Assessing a civil penalty against the Respondent of Twenty-Five Thousand Dollars per day of violation of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2010), and Sections 725.135 and 725.274 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.135 and 725.274;
5. Taxing all costs of this action to the Respondent pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and
6. Granting such other relief as the Board deems appropriate and just.

COUNT V

FAILURE TO COMPLY WITH HAZARDOUS WASTE MANAGEMENT REQUIREMENTS - CONTINGENCY PLAN AND EMERGENCY PROCEDURES

- 1-36. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 36 of Count III as paragraphs 1 through 36 of this Count V.
37. Section 725.152(d) and (f) of the Board Waste Disposal Regulations, 35 Ill. Adm.

Code 725.152(d) and (f), provide as follows:

Content of Contingency Plan

- d) The plan must list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator (see Section 725.155), and this list must be kept up to date. Where more than one person is listed one must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates.

* * *

- f) The plan must include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan must describe signals to be used to begin evacuation, evacuation routes, and alternate evacuation routes (in cases where the primary routes could be blocked by releases of hazardous waste or fires).

38. From at least June 22, 2010 through the date of filing of this Complaint, or on a date better known to the Respondent, Forbo failed to maintain an up to date list of emergency coordinators and include information on evacuation procedures in its contingency plan, in violation of Sections 725.152(d) and (f) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.152(d) and (f).

39. Section 725.153(b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.153(b), provides as follows:

Copies of Contingency Plan

The facility owner or operator must undertake each of the following actions with regard to copies of the contingency plan and all revisions to the plan:

* * *

- b) It must submit a copy to each local police department, fire department, hospital, and State and local emergency response team that may be called upon to provide emergency services at the facility.

40. From at least June 22, 2010 through the date of filing of this Complaint, or on a date better known to the Respondent, Forbo failed to submit a copy of its contingency plan to emergency response agencies that may be called upon to provide emergency services at the Facility, in violation of Sections 725.153(b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.153(b).

41. By violating Sections 725.152(d) and (f) and 725.153(b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.152(d) and (f) and 725.153(b), Forbo thereby also violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Pollution Control Board enter an order against Respondent, FORBO ADHESIVES, LLC, with respect to Count V:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations contained herein;
2. Finding that Respondent has violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2010), and Sections 725.152(d) and (f) and 725.153(b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.152(d) and (f) and 725.153(b);
3. Ordering Respondent to close the waste storage areas at the Facility in accordance with the Illinois EPA-approved RCRA Closure Plan and take immediate action to correct the violations of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2010), and Sections 725.152(d) and (f) and 725.153(b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.152(d) and (f) and 725.153(b);
4. Assessing a civil penalty against the Respondent of Twenty-Five Thousand Dollars per day of violation of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2010), and

Sections 725.152(d) and (f) and 725.153(b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.152(d) and (f) and 725.153(b);

5. Taxing all costs of this action to the Respondent pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

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

COUNT VI

FAILURE TO COMPLY WITH HAZARDOUS WASTE MANAGEMENT REQUIREMENTS - MANIFEST SYSTEM, RECORDKEEPING, AND REPORTING

1-36. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 36 of Count III as paragraphs 1 through 36 of this Count VI.

37. Section 725.173 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.173, provides as follows:

Operating Record

- a) The owner or operator must keep a written operating record at the facility.
- b) The following information must be recorded as it becomes available and maintained in the operating record for three years unless otherwise provided as follows:
 - 1) A description and the quantity of each hazardous waste received and the methods and dates of its treatment, storage, or disposal at the facility, as required by Appendix A to this Part. This information must be maintained in the operating record until closure of the facility;
 - 2) The location of each hazardous waste within the facility and the quantity at each location. For disposal facilities the location and quantity of each hazardous waste must be recorded on a map or diagram that shows each cell or disposal area. For all facilities this information must include cross-references to manifest document numbers if the waste was accompanied by a manifest. This

- information must be maintained in the operating record until closure of the facility;
- 3) Records and results of waste analysis, waste determinations, and trial tests performed, as specified in Sections 725.113, 725.300, 725.325, 725.352, 725.373, 725.414, 725.441, 725.475, 725.502, 725.934, 725.963, and 725.984 and 35 Ill. Adm. Code 728.104(a) and 728.107;
 - 4) Summary reports and details of all incidents that require implementing the contingency plan, as specified in Section 725.156(j);
 - 5) Records and results of inspections as required by Section 725.115(d) (except these data need be kept only three years);
 - 6) Monitoring, testing, or analytical data, where required by Subpart F of this Part or Sections 725.119, 725.194, 725.291, 725.293, 725.295, 725.324, 725.326, 725.355, 725.360, 725.376, 725.378, 725.380(d)(1), 725.402, 725.404, 725.447, 725.477, 725.934(c) through (f), 725.935, 725.963(d) through (i), 725.964, and 725.1083 through 725.990. Maintain in the operating record for three years, except for records and results pertaining to groundwater monitoring and cleanup, and response action plans for surface impoundments, waste piles, and landfills, which must be maintained in the operating record until closure of the facility;
 - 7) All closure cost estimates under Section 725.242 and, for disposal facilities, all post-closure cost estimates under Section 725.244 must be maintained in the operating record until closure of the facility;
 - 8) Records of the quantities (and date of placement) for each shipment of hazardous waste placed in land disposal units under an extension of the effective date of any land disposal restriction granted pursuant to 35 Ill. Adm. Code 728.105, a petition pursuant to 35 Ill. Adm. Code 728.106, or a certification under 35 Ill. Adm. Code 728.108 and the applicable notice required of a generator under 35 Ill. Adm. Code 728.107(a). All of this information must be maintained in the operating record until closure of the facility;

- 9) For an off-site treatment facility, a copy of the notice and the certification and demonstration, if applicable, required of the generator or the owner or operator under 35 Ill. Adm. Code 728.107 or 728.108;
- 10) For an on-site treatment facility, the information contained in the notice (except the manifest number) and the certification and demonstration, if applicable, required of the generator or the owner or operator under 35 Ill. Adm. Code 728.107 or 728.108;
- 11) For an off-site land disposal facility, a copy of the notice and the certification and demonstration, if applicable, required of the generator or the owner or operator of a treatment facility under 35 Ill. Adm. Code 728.107 or 728.108;
- 12) For an on-site land disposal facility, the information contained in the notice required of the generator or owner or operator of a treatment facility under 35 Ill. Adm. Code 728.107, except for the manifest number, and the certification and demonstration, if applicable, required under 35 Ill. Adm. Code 728.107 or 728.108;
- 13) For an off-site storage facility, a copy of the notice and the certification and demonstration, if applicable, required of the generator or the owner or operator under 35 Ill. Adm. Code 728.107 or 728.108;
- 14) For an on-site storage facility, the information contained in the notice (except the manifest number) and the certification and demonstration, if applicable, required of the generator or the owner or operator under 35 Ill. Adm. Code 728.107 or 728.108; and
- 15) Monitoring, testing or analytical data, and corrective action, where required by Sections 725.190 and 725.193(d)(2) and (d)(5), and the certification, as required by Section 725.196(f), must be maintained in the operating record until closure of the facility.

38. From at least June 22, 2010 through the date of filing of this Complaint, or on a date better known to the Respondent, Forbo failed to maintain a written operating record at the Facility detailing the required information, in violation of Sections 725.173 of the Board Waste

Disposal Regulations, 35 Ill. Adm. Code 725.173.

39. Section 725.175 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.175, provides as follows:

Annual Report

The owner and operator must prepare and submit a single copy of an annual report to the Agency by March 1 of each year. The report form and instructions supplied by the Agency must be used for this report. The annual report must cover facility activities during the previous calendar year and must include the following information:

- a) The USEPA identification number (Section 725.111), name and address of the facility;
- b) The calendar year covered by the report;
- c) For off-site facilities, the USEPA identification number of each hazardous waste generator from which the facility received a hazardous waste during the year; for imported shipments, the report must give the name and address of the foreign generator;
- d) A description and the quantity of each hazardous waste the facility received during the year. For off-site facilities this information must be listed by USEPA identification number of each generator;
- e) The method of treatment, storage, or disposal for each hazardous waste;
- f) Monitoring data under Section 725.194(a)(2)(B), (a)(2)(C), and (b)(2), where required;
- g) The most recent closure cost estimate under Section 725.242 and for disposal facilities the most recent post-closure cost estimate under Section 725.244;
- h) For generators that treat, store, or dispose of hazardous waste on-site, a description of the efforts undertaken during the year to reduce the volume and toxicity of the waste generated;
- i) For generators that treat, store, or dispose of hazardous waste on-site, a description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years,

to the extent such information is available for years prior to 1984;
and

- j) The certification signed by the owner or operator of the facility or the owner or operator's authorized representative.

40. From at least June 22, 2010 through the date of filing of this Complaint, or on a date better known to the Respondent, Forbo failed to submit an annual report, in violation of Sections 725.175 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.175.

41. By violating Sections 725.173 and 725.175 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.173 and 725.175, Forbo thereby also violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Pollution Control Board enter an order against Respondent, FORBO ADHESIVES, LLC, with respect to Count VI:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations contained herein;
2. Finding that Respondent has violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2010), and Sections 725.173 and 725.175 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.173 and 725.175;
3. Ordering Respondent to close the waste storage areas at the Facility in accordance with the Illinois EPA-approved RCRA Closure Plan and take immediate action to correct the violations of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2010), and Sections 725.173 and 725.175 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.173 and 725.175;
4. Assessing a civil penalty against the Respondent of Twenty-Five Thousand Dollars per day of violation of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2010), and

Sections 725.173 and 725.175 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.173 and 725.175;

5. Taxing all costs of this action to the Respondent pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

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

COUNT VII

FAILURE TO COMPLY WITH HAZARDOUS WASTE MANAGEMENT REQUIREMENTS - CLOSURE AND POST-CLOSURE CARE

1-36. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 36 of Count III as paragraphs 1 through 36 of this Count VII.

37. Section 725.212(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.212(a), provides as follows:

Closure Plan

- a) Written plan. Within six months after the effective date of the rule that first subjects a facility to provisions of this Section, the owner or operator of a hazardous waste management facility must have a written closure plan. Until final closure is completed and certified in accordance with Section 725.215, a copy of the most current plan must be furnished to the Agency upon request including request by mail. In addition, for facilities without approved plans, it must also be provided during site inspections on the day of inspection to any officer, employee, or representative of the Agency.

38. From at least June 22, 2010 through February 28, 2011, when Forbo submitted its Closure Plan to the Illinois EPA, Forbo failed to have a written closure plan, in violation of Sections 725.212(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.212(a).

39. Section 725.218(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.218(a), provides as follows:

Post-Closure Care Plan

- a) **Written Plan.** The owner or operator of a hazardous waste disposal unit must have a written post-closure care plan. An owner or operator of a surface impoundment or waste pile that intends to remove all hazardous wastes at closure must prepare a post-closure care plan and submit it to the Agency within 90 days after the date that the owner or operator or Agency determines that the hazardous waste management unit or facility must be closed as a landfill, subject to the requirements of Sections 725.217 through 725.220.

40. From at least June 22, 2010 through February 28, 2011, Forbo failed to have a written post-closure plan, in violation of Sections 725.218(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.218(a).

41. Section 725.242(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.242(a), provides as follows:

Cost Estimate for Closure

- a) The owner or operator must have a detailed written estimate, in current dollars, of the cost of closing the facility in accordance with the requirements in Sections 725.211 through 725.215 and applicable closure requirements of Sections 725.297, 725.328, 725.358, 725.380, 725.410, 725.451, 725.481, 725.504, and 725.1102.
 - 1) The estimate must equal the cost of final closure at the point in the facility's active life when the extent and manner of its operation would make closure the most expensive, as indicated by its closure plan (see Section 725.212(b)); and
 - 2) The closure cost estimate must be based on the costs to the owner or operator of hiring a third party to close the facility. A third party is a party that is neither a parent nor a subsidiary of the owner or operator. (See definition of "parent corporation" in Section 725.241(d).) The owner or operator may use costs for on-site disposal if the owner or operator demonstrates that on-site disposal capacity will exist at all times over the life of the facility.
 - 3) The closure cost estimate must not incorporate any salvage value that may be realized by the sale of hazardous wastes,

or non-hazardous wastes if applicable under Section 725.213(d), facility structures or equipment, land or other facility assets at the time of partial or final closure.

- 4) The owner or operator must not incorporate a zero cost for hazardous waste, or non-hazardous waste if applicable under Section 725.213(d), that may have economic value.

42. From at least June 22, 2010 through February 28, 2011, Forbo failed to have a written estimate of closure costs, in violation of Sections 725.242(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.242(a).

43. Section 725.244(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.244(a), provides as follows:

Cost Estimate for Post-Closure Care

- a) The owner or operator of a hazardous waste disposal unit must have a detailed written estimate, in current dollars, of the annual cost of post-closure monitoring and maintenance of the facility in accordance with the applicable post-closure regulations in Section 725.217 through 725.220, 725.328, 725.358, 725.380, and 725.410.
 - 1) The post-closure cost estimate must be based on the costs to the owner or operator of hiring a third party to conduct post-closure care activities. A third party is a party that is neither a parent nor a subsidiary of the owner or operator. (See the definition of "parent corporation" in Section 725.241(d).)
 - 2) The post-closure cost estimate is calculated by multiplying the annual post-closure cost estimate by the number of years of post-closure care required under Section 725.217.

44. From at least June 22, 2010 through February 28, 2011, Forbo failed to have a written estimate of the annual cost of post-closure care activities, in violation of Section 725.244(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.244(a).

45. By violating Sections 725.212(a), 725.218(a), 725.242(a), and 725.244(a) of the

Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.212(a), 725.218(a), 725.242(a), and 725.244(a), Forbo thereby also violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Pollution Control Board enter an order against Respondent, FORBO ADHESIVES, LLC, with respect to Count VII:

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

2. Finding that Respondent has violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2010), and Sections 725.212(a), 725.218(a), 725.242(a), and 725.244(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.212(a), 725.218(a), 725.242(a), and 725.244(a);

3. Ordering Respondent to close the waste storage areas at the Facility in accordance with the Illinois EPA-approved RCRA Closure Plan and take immediate action to correct the violations of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2010), and Sections 725.212(a), 725.218(a), 725.242(a), and 725.244(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.212(a), 725.218(a), 725.242(a), and 725.244(a);

4. Assessing a civil penalty against the Respondent of Twenty-Five Thousand Dollars per day of violation of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2010), and Sections 725.212(a), 725.218(a), 725.242(a), and 725.244(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.212(a), 725.218(a), 725.242(a), and 725.244(a);


5. Taxing all costs of this action to the Respondent pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

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

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

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

BY:


ROSEMARIE CAZEAU, Chief
Environmental Bureau
Assistant Attorney General

OF COUNSEL:

JENNIFER A. VAN WIE
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
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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, Respondent was and is a Delaware limited liability company that is authorized to transact business in the State of Illinois.

4. At all times relevant to the Complaint, Respondent manufactured polyurethane adhesives at its facility located at 6352 E. Collins Road, Morris, Grundy County, Illinois ("Facility").

B. Allegations of Non-Compliance

Complainant contends that the Respondent has violated the following provisions of the Act and Illinois Pollution Control Board ("Board") regulations:

- Count I: Conducting a Hazardous Waste Storage Operation Without a Resource Conservation and Recovery Act ("RCRA") Permit, in violation of Sections 21(f)(1) and (2) of the Act, 415 ILCS 5/21(f)(1) and (2) (2010), and Sections 703.121(a) and (b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 703.121(a) and (b);
- Count II: Failure to Comply with Hazardous Waste Accumulation Limitations, in violation of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2010), and Section 722.134(b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 722.134(b);
- Count III: Failure to Comply with Hazardous Waste Management Requirements - General Facility Standards, in violation of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2010), and Sections 725.113(b), 725.114(c) and 725.115(b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.113(b), 725.114(c) and 725.115(b);
- Count IV: Failure to Comply with Hazardous Waste Management Requirements - Preparedness and Prevention and Use and

Management of Containers, in violation of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2010), and Sections 725.135 and 725.274 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.135 and 725.274;

Count V: Failure to Comply with Hazardous Waste Management Requirements - Contingency Plan and Emergency Procedures, in violation of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2010), and Sections 725.152(d) and (f) and 725.153(b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.152(d) and (f) and 725.153(b);

Count VI: Failure to Comply with Hazardous Waste Management Requirements - Manifest System, Recordkeeping and Reporting, in violation of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2010), and Sections 725.173 and 725.175 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.173 and 725.175; and

Count VII: Failure to Comply with Hazardous Waste Management Requirements - Closure and Post-Closure Care, in violation of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2010), and Sections 725.212(a), 725.218(a), 725.242(a), and 725.244(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.212(a), 725.218(a), 725.242(a), and 725.244(a)

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 February 28, 2011, Forbo submitted a RCRA Closure Plan to the Illinois EPA for its Facility.

2. On May 11, 2011, the Illinois EPA approved the RCRA Closure Plan Forbo

submitted on February 28, 2011.

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 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 (2010).

No change in ownership, corporate status or operator of the facility shall in any way alter the responsibilities of the Respondent under this Stipulation. In the event that the Respondent proposes to sell or transfer any real property or operations subject to this Stipulation, the Respondent shall notify the Complainant thirty (30) calendar days prior to the conveyance of title, ownership or other interest, including a leasehold interest in the facility or a portion thereof. The Respondent shall make as a condition of any such sale or transfer, that the purchaser or successor provide to Respondent site access and all cooperation necessary for Respondent to perform to completion any compliance obligation(s) required by this Stipulation. The Respondent shall provide a copy of this Stipulation to any such successor in interest and the Respondent shall continue to be bound by and remain liable for performance of all obligations under this Stipulation. In appropriate circumstances, however, the Respondent and a proposed purchaser or operator of the facility may jointly request, and the Complainant, in its discretion, may consider modification of this Stipulation to obligate the proposed purchaser or operator to

carry out future requirements of this Stipulation in place of, or in addition to, the Respondent.

This provision does not relieve the Respondent from compliance with any regulatory

requirement regarding notice and transfer of applicable facility permits.

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 violations thereby increasing the threat or the potential threat to human health and the environment.

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. Complying with the statutes and regulations pertaining to the storage and management of hazardous wastes is both technically practicable and economically reasonable.

5. Respondent has subsequently complied with the Act and the Board regulations.

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. The Respondent failed to properly store its hazardous waste in compliance with RCRA and the Board regulations from at least June 22, 2010 to May 11, 2011, when the Illinois EPA approved of Forbo's proposed RCRA Closure Plan for its Facility. Respondent asserts that

this was the result of accumulation of hazardous waste in secure containers for ten (10) days beyond the ninety (90) days allowed for accumulation without obtaining a permit for storage and meeting the standards required for such a permit.

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

3. The Illinois EPA has determined that Respondent gained minimal economic benefit due to its noncompliance. Complainant will recoup any economic benefit realized by Respondent through the penalty.

4. Complainant has determined, based upon the specific facts of this matter, that a penalty of Forty-Four Thousand Four Hundred and Three Dollars (\$44,403.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

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

6. 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 Forty-Four Thousand Four Hundred and Three Dollars (\$44,403.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

B. Stipulated Penalties, Interest and Default

1. If the Respondent fails to complete any activity or fails to comply with any response or reporting requirement by the date specified in this Stipulation, the Respondent shall provide notice to the Complainant of each failure to comply with this Stipulation and shall pay stipulated penalties in the amount of \$50.00 per day until such time that compliance is achieved. The Complainant may make a demand for stipulated penalties upon the Respondent for its noncompliance with this Stipulation. However, failure by the Complainant to make this demand shall not relieve the Respondent of the obligation to pay stipulated penalties. All stipulated penalties shall be payable within thirty (30) calendar days of the date the Respondent knows or should have known of its noncompliance with any provision of this Stipulation.

2. 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.

3. 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.

4. The stipulated penalties shall be enforceable by the Plaintiff and shall be in addition to, and shall not preclude the use of, any other remedies or sanctions arising from the failure to comply with this Stipulation.

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, 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 implement the Closure Plan, approved by the Illinois EPA on May 11, 2011, in accordance with the schedules contained therein.

2. 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.

3. 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.

4. The Respondent shall cease and desist from future violations of the Act and Board Regulations that were the subject matter of the Complaint.

E. Release from Liability

In consideration of the Respondent's payment of the \$44,403.00 penalty, its commitment to cease and desist as contained in Section V.D.4 above, completion of all activities required hereunder, 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 on August 31, 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. Correspondence, Reports and Other Documents

Any and all correspondence, reports and any other documents required under this Stipulation, 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

Peter Orlinsky
Assistant Counsel
Division of Legal Counsel
Illinois Environmental Protection Agency
Des Plaines Regional Office
9511 West Harrison Street
Des Plaines, Illinois 60016

Joyce Gibbons
Bureau of Land, Field Operations Section
Illinois Environmental Protection Agency
Rockford Regional Office
4302 North Main Street
Rockford, Illinois 61103

As to the Respondent

Robert L. Collings
Schnader Harrison Segal & Lewis LLP
1600 Market Street, Suite 3600
Philadelphia, Pennsylvania 19103

John W. Raney, II
Regional Operations Manager
Forbo Adhesives, LLC
7440 W. DuPont Road

Morris, Illinois 60450

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

BY: 
ROSEMARIE CAZEAU, Chief
Environmental Bureau
Assistant Attorney General

BY: 
JOHN J. KIM
Chief Legal Counsel

DATE: 8/29/11

DATE: 8/28/11

FORBO ADHESIVES, LLC

By: J. J. Chambers
Its: PRESIDENT

DATE: 08/12/2011

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
by LISA MADIGAN, Attorney General)	
of the State of Illinois,)	
)	
Complainant,)	
)	
v.)	PCB No. 12-
)	(Enforcement - RCRA)
FORBO ADHESIVES, LLC, a Delaware)	
limited liability company,)	
)	
Respondent.)	

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 21(f)(1) and (2) of the Act, 415 ILCS 5/21(f)(1) and (2) (2010), and Sections 703.121(a) and (b), 722.134(b), 725.113(b), 725.114(c), 725.115(b), 725.135, 725.274, 725.152(d) and (f), 725.153(b), 725.173, 725.175, 725.212(a), 725.218(a), 725.242(a), and 725.244(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 703.121(a) and (b), 722.134, 725.113(b), 725.114(c), 725.115(b), 725.135, 725.274, 725.152(d) and (f), 725.153(b), 725.173, 725.175, 725.212(a), 725.218(a), 725.242(a), and 725.244(a).

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: August 31, 2011

CERTIFICATE OF SERVICE

I, JENNIFER A. VAN WIE, an Assistant Attorney General, certify that on the 31st day of August 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