

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

<b>PEOPLE OF THE STATE OF ILLINOIS,</b>	)	
	)	
<b>Complainant,</b>	)	
	)	
<b>vs.</b>	)	<b>PCB No. 10-9</b>
	)	<b>(Cost Recovery)</b>
<b>WASTE HAULING LANDFILL, INC.,</b>	)	
<b>et al.,</b>	)	
	)	
<b>Respondents.</b>	)	

**NOTICE OF ELECTRONIC FILING**

To: See Attached Service List

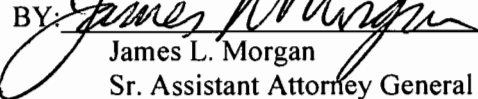
PLEASE TAKE NOTICE that on September 30, 2011, I electronically filed with the Clerk of the Pollution Control Board of the State of Illinois, c/o John T. Therriault, Assistant Clerk, James R. Thompson Center, 100 W. Randolph St., Ste. 11-500, Chicago, IL 60601, a MOTION FOR RELIEF FROM HEARING REQUIREMENT and STIPULATION AND PROPOSAL FOR SETTLEMENT, copies of which are attached hereto and herewith served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN,  
Attorney General of the  
State of Illinois

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

BY:   
James L. Morgan  
Sr. Assistant Attorney General  
Environmental Bureau

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: September 30, 2011

**CERTIFICATE OF SERVICE**

I hereby certify that I did on the 30<sup>th</sup> day of September, 2011, send by First Class Mail, with postage thereon fully prepaid, a true and correct copy of the instruments entitled Notice of Electronic Filing, Motion for Relief from Hearing Requirement and Stipulation and Proposal for Settlement with Borg Warner, Inc.

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  
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

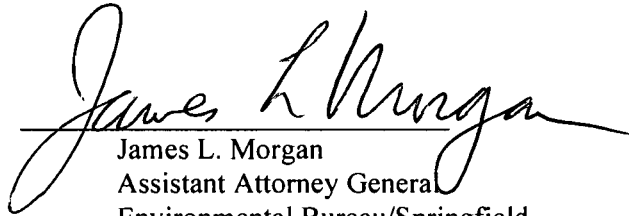
ZEXEL ILLINOIS, INC  
c/o Jerry Maynard  
Dykema  
10 S. Wacker Drive, Suite 2300  
Chicago, IL 60606

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.

A handwritten signature in black ink, reading "James L. Morgan". The signature is written in a cursive style with a horizontal line underneath the name.

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

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

<b>PEOPLE OF THE STATE OF ILLINOIS,</b>	)	
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<b>Complainant,</b>	)	
	)	
<b>vs.</b>	)	<b>PCB No. 10-9</b>
	)	<b>(Cost Recovery)</b>
<b>WASTE HAULING LANDFILL, INC., et. al,</b>	)	
	)	
<b>Respondents.</b>	)	

**MOTION FOR RELIEF FROM HEARING REQUIREMENT**

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, with the concurrence of Respondent BORGWARNER, 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:

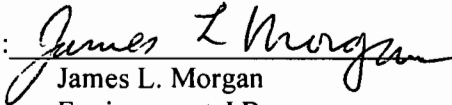
1. The Complaint has reached an agreement with Respondent resolving the claims in the Second Amended Complaint against the Respondent.
2. This agreement is presented to the Board in a Stipulation and Proposal for Settlement for Respondent, filed contemporaneously with this motion.
3. The Complainant 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. Similar requests were previously submitted with regard to other Stipulations and Proposals for Settlement.

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: September 30, 2011

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

<b>PEOPLE OF THE STATE OF ILLINOIS,</b>	)	
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<b>Complainant,</b>	)	
	)	
<b>v.</b>	)	<b>PCB NO. 10-9</b>
<b>WASTE HAULING LANDFILL, INC., et al</b>	)	
	)	<b>(Cost Recovery)</b>
	)	
	)	
<b>Respondent.</b>	)	

**STIPULATION AND PROPOSAL FOR SETTLEMENT WITH BORGWARNER INC.**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, the Illinois Environmental Protection Agency (“Illinois EPA”), and BorgWarner Inc. (“Respondent”) (“Parties to the Stipulation”), have agreed to the making of this Stipulation and Proposal for Settlement (“Stipulation”) and submit it to the Illinois Pollution Control Board (“Board”) for approval. This stipulation of facts is made and agreed upon for purposes of settlement only and as a basis for the Board’s approval of this Stipulation and issuance of relief. None of the facts stipulated herein shall be introduced into evidence in any other proceeding regarding the alleged violations of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/1 *et seq.* (2006), and the Board’s Regulations, alleged in the Complaint except as otherwise provided herein. In addition, no part of this Stipulation shall constitute or be construed as, an admission of liability under State, Federal, common or local law, or as an admission of fact or evidence of such, or as an admission of any violation of any law or regulation. It is the intent of the Parties to the Stipulation that it be a final adjudication of this matter.

**I. STATEMENT OF FACTS**

**A. Parties**

1. On July 29, 2009, a Complaint was filed on behalf of the People of the State of Illinois by Lisa Madigan, Attorney General of the State of Illinois, on her own motion and upon the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2006). The Complaint was subsequently amended on September 14, 2009, and October 14, 2010.

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 (2006).

3. At all times relevant to the Complaint, Respondent was and is a foreign corporation that is authorized to transact business in the State of Illinois.

At all times relevant to the Complaint, Respondent or one of its subsidiaries, affiliates or predecessors owned and operated an automotive parts manufacturing facility located at 625 Southside Dr., Decatur, Macon County, Illinois.

4. During the period of February 1981 to October 1987, Respondent or one of its subsidiaries, affiliates or predecessors allegedly arranged to have wastes generated from its operations disposed at the Waste Hauling Landfill in Decatur, Macon County, Illinois.

5. Respondent or one of its subsidiaries, affiliates or predecessors had allegedly been issued waste stream authorizations (“WSA”) including, WSA 812851. According to the WSA, the waste Respondent or one of its subsidiaries, affiliates or predecessors allegedly generated (grinding sludge) was characterized as “non-hazardous.” The chemical makeup of the waste is unknown.



6. According to various special waste manifests submitted on behalf of Respondent, approximately 3,278 cubic yards of wastes were allegedly disposed of at the Waste Hauling Landfill.

7. 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.

8. Illinois EPA incurred costs of \$3,000,000 in performing these removal actions.

## **II. APPLICABILITY**

This Stipulation shall apply to and be binding upon and inure to the benefit of the Parties to the Stipulation, and any officer, director, employee, agent, attorney, official, affiliate, subsidiary, parent company, predecessor, successor, and assigns of the Respondent. The Respondent shall not raise as a defense to any enforcement action taken pursuant to this Stipulation the failure of any of its officers, directors, agents, employees or successors or assigns to take such action as shall be required to comply with the provisions of this Stipulation.

## **V. TERMS OF SETTLEMENT**

### **A. Removal Costs Payment**

The Respondent shall pay the sum of Thirty-Nine Thousand Dollars (\$39,000.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation to reimburse Illinois EPA for all past and future removal costs incurred at the Waste Hauling Landfill. The Respondent shall pay the sum of Two Hundred and Fifty Dollars (\$250.00) 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.

**B. Payment Procedures**

1. 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.

2. 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.

**C. Release from Liability**

In consideration of the Respondent's payment of the \$39,250.00 for reimbursement of all past and future removal costs and upon the Board's approval of this Stipulation, the Complainant forever releases, waives and discharges the Respondent from any further liability for any costs associated with the Waste Hauling Landfill that were the subject of the Complaint herein. The release set forth above does not extend to any matters other than those expressly specified in the Complaint in this cause. 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.

**D. Covenant Not to Sue and Contribution Protection**

The Parties agree, that by entering into this Stipulation the Board finds, that the

Respondent, its former, present and future owners, shareholders, officers, directors, employees, affiliates, parents, subsidiaries, successors, predecessors, agents, and assigns, whether pursuant to contract, by operation of law, have resolved their liability to the State and are entitled, as of the effective date of this Stipulation, to protection from contribution actions or claims as provided by Section 22.2a, 415 ILCS 5/22.2a, of the Act for matters addressed in this Stipulation.

**E. Enforcement and Modification of Stipulation**

Upon the entry of the Board's Order approving and accepting this Stipulation, that Order is a binding and enforceable order of the Board and may be enforced as such through any and all available means.

**F. 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.

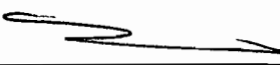
PEOPLE OF THE STATE OF ILLINOIS,


THE ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

LISA MADIGAN  
Attorney General  
State of Illinois

LISA BONET, Interim Director  
Illinois Environmental Protection Agency

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

BY:   
THOMAS DAVIS, Chief  
Environmental Bureau  
Assistant Attorney General

BY:   
JOHN J. KIM  
Chief Legal Counsel

DATE: 9/14/11

DATE: 9/19/11

[RESPONDENT NAME]

BY: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

DATE: \_\_\_\_\_

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

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

THE ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

LISA BONET, Interim Director  
Illinois Environmental Protection Agency

BY:

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

DATE: \_\_\_\_\_


BY:

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

DATE: \_\_\_\_\_

[RESPONDENT NAME]

BY:

  
\_\_\_\_\_  
Name: John J. Gasparovic  
Title: VP, General Counsel & Secretary

DATE:

8/22/11