

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**


PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB No. 06-115
	)	(Enforcement – Land, Water)
NATIONAL CITY ENVIRONMENTAL,	)	
LLC, an Illinois limited liability	)	
corporation, and NATIONAL CITY	)	
RECYCLING, LLC, an Illinois limited	)	
liability corporation,	)	
	)	
Respondents.	)	

**NOTICE OF FILING**

To: See attached service list  
(VIA ELECTRONIC FILING)

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

LISA MADIGAN  
Attorney General  
State of Illinois

  
\_\_\_\_\_  
Jamie Getz

Dated: October 21, 2014

Jamie D. Getz  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
69 W. Washington Street, Suite 1800  
Chicago, Illinois 60602  
(312) 814-6986

**THIS FILING IS SUBMITTED ON RECYCLED PAPER**

**Service List**

For National City Environmental and National City Recycling

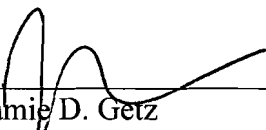
Steven M. Siros  
Jenner & Block LLP  
353 North Clark Street  
Chicago, Illinois 60654-3456

For the Illinois Pollution Control Board

Carol Webb  
Hearing Officer  
Illinois Pollution Control Board  
1021 North Grand Avenue East  
P.O. Box 19274  
Springfield, Illinois 62794-9274

**CERTIFICATE OF SERVICE**

I, Jamie Getz, an Assistant Attorney General, certify that on the 21st day of October, 2014, I caused to be served by U.S. Mail the foregoing 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.



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Jamie D. Getz  
Assistant Attorney General  
Environmental Bureau  
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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, and pursuant to Section 31(c)(2) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31(c)(2) (2012), 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) (2012). In support of this motion, Complainant states as follows:

1. The Complaint in this matter alleges violations of Sections 12(a), 12(d), 21(a), 21(d)(1), 21(d)(2), 21(e), and 21(p)(1) of the Act, 415 ILCS 5/12(a), 12(d), 21(a), 21(d)(1), 21(d)(2), 21(e), and 21(p)(1) (2012), and Sections 620.405 and 620.410 of the Board Groundwater Quality Standards Regulations, 35 Ill. Adm. Code 620.405 and 620.410.
2. The parties have reached agreement on all outstanding issues in this matter.
3. This agreement is presented to the Board in a Stipulation and Proposal for Settlement filed this same date.
4. All parties agree that a hearing on the Stipulation and Proposal for Settlement is not necessary, and respectfully request relief from such a hearing as allowed by Section 31(c)(2)

of the Act, 415 ILCS 5/31(c)(2) (2012).

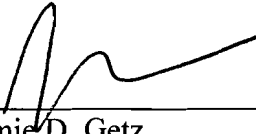
WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby requests that the Board grant this motion for relief from the hearing requirement set forth in Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2012).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN  
Attorney General  
State of Illinois

BY:



Jamie D. Getz  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
69 W. Washington Street, Suite 1800  
Chicago, Illinois 60602  
(312) 814-6986

DATE: October 21, 2014.

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liability corporation,	)	
	)	
Respondents.	)	

**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 NATIONAL CITY ENVIRONMENTAL, LLC, an Illinois limited liability corporation, and NATIONAL CITY RECYCLING, LLC, an Illinois limited liability corporation (“Respondents”), (collectively “Parties to the Stipulation”), have agreed to the making of this Stipulation and Proposal for Settlement (“Stipulation”) and submit it to the Illinois Pollution Control Board (“Board”) for approval. This stipulation of facts is made and agreed upon for purposes of settlement only and as a factual basis for the Board’s approval of this Stipulation and issuance of relief. None of the facts stipulated herein shall be introduced into evidence in any other proceeding regarding the violations of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/1, et seq. (2012), and the Board’s regulations, alleged in the Complaint except as otherwise provided herein. It is the intent of the Parties to the Stipulation that it be a final adjudication of this matter.

**I. STATEMENT OF FACTS**

**A. Parties**

1. On December 22, 2005, 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 (2012), against the Respondents.

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 (2012).

3. At all times relevant to the Complaint, Respondents were and are Illinois limited liability corporations that are authorized to transact business in the State of Illinois.

4. At all times relevant to the Complaint, Respondents owned and operated a recycling facility located in National City, St. Clair County, Illinois ("Facility" or "Site"). Operations at the Facility include the shredding of automobiles and white goods (e.g. household appliances), the recycling of materials, and the disposal of waste in on-Site landfills.

**B. Allegations of Non-Compliance**

Complainant contends that the Respondents have violated the following provisions of the Act and Board regulations:

- Count I: Conditions II.14, V.3c, V.3d, V.10, V.12(d), V.14, V.17, V.21 of Permit 1994-065 LFM (as modified), and Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2012);
- Count II: Conditions 6.b and 8.b of Permit 1996-293-SP Attachment A, and Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2012);
- Count III: Sections 21(d)(2) & (e) of the Act, 415 ILCS 5/21(d)(2) & (e) (2012);

Count IV: Sections 620.405 and 620.410 of the Board's Groundwater Quality Standards, 35 Ill. Adm. Code 620.405 and 620.410, Sections 12(a) &(d) of the Act, 415 ILCS 5/12(a)&(d) (2012), and Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2012);

Count V: Sections 21(a), (e) & (p)(1) of the Act, 415 ILCS 5/21(a), (e) & (p)(1) (2012).

**C. Additional Alleged Violations**

Complainant alleges the following additional violations by the Respondents:

Violation Notice L-2008-01284, issued by the Illinois EPA to the respondents: Conditions V.6, V.11, V.12, V.14, V.15, and V.17 of Permit 1994-065 LFM, Conditions 1, 8a, and 8b of Permit 1996-293-SP Attachment A, Section 12(a) of the Act, 415 ILCS 5/12 (2012), Section 21(d)(1), (d)(2), (e) & (p)(1) of the Act, 415 ILCS 5/21(d)(1), (d)(2), (e) & (p)(1) (2012);

Violation Notices M-2009-01031 and M-2009-10132, issued by the Illinois EPA to the respondents: Conditions VI.7.a, VI.9 of Permit 1994-065 LFM, Section 21(d)(1), (d)(2), (e) of the Act, 415 ILCS 5/21(d)(1), (d)(2), (e) & (p)(1) (2012); 35 IAC 811.311.a.1.

**D. Non-Admission of Violations**

The Respondents represent that they have 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 Respondents do not affirmatively admit the allegations of violation within the Complaint and the additional violations referenced within Section I.C herein, and this Stipulation shall not be interpreted as including such admission.

**II. APPLICABILITY**

This Stipulation shall apply to and be binding upon the Parties to the Stipulation. The Respondents shall not raise as a defense to any enforcement action taken pursuant to this Stipulation the failure of any of their 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 Respondents 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 (2012).

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

Section 33(c) of the Act, 415 ILCS 5/33(c) (2012), 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. Complainant alleges that human health and the environment were threatened by the Respondents' violations.
2. There is social and economic benefit to the Facility.
3. Operation of the Facility was and is suitable for the area in which it is located.
4. Complainant alleges that compliance with the Act and Board Regulations was

both technically practicable and economically reasonable.

5. Respondents have 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) (2012), 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;
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; and
8. whether the respondent has successfully completed a Compliance Commitment Agreement under subsection (a) of Section 31 of this Act to remedy the violations that are the subject of the complaint.

In response to these factors, the Parties to the Stipulation state as follows:

1. The Respondents obtained a permit for construction site activities but allegedly violated provisions of their permit once such coverage was obtained. The alleged violations began on or around 1998 and were individually resolved beginning in 2009.
2. Respondents did attempt to come back into compliance with the Act, Board regulations and applicable federal regulations once the Illinois EPA notified them of their noncompliance.
3. Any economic benefit of noncompliance derived by Respondents will be recouped as part of the civil penalty to be paid in this matter.
4. Complainant has determined, based upon the specific facts of this matter, that a penalty of Seventy Five Thousand Dollars (\$75,000.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.
5. Respondents were the respondents in administrative citation "IEPA Docket 89 83-AC (AC 88-51 Docket A&B) 7/13/89 (AC 88-51 Docket B) 9/13/89 (Appeal), in which alleged violations included uncovered refuse, lack of final cover and leachate. A penalty of \$3,500.00 was imposed. Respondents were also a defendant in Case No. 97-CR-60 in St. Clair County Circuit Court in which various violations were alleged, including the open burning of auto fluff. A Consent Order was entered which ordered a penalty of \$20,000.00.
6. Self-disclosure is not at issue in this matter.
7. The settlement of this matter does not include a supplemental environmental project.
8. A Compliance Commitment Agreement was not at issue in this matter.

**V. TERMS OF SETTLEMENT**

**A. Penalty Payment**

1. Respondents shall pay a civil penalty in the sum of Seventy Five Thousand Dollars (\$75,000.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

**B. Interest and Default**

1. If the Respondents fail to make any payment required by this Stipulation on or before the date upon which the payment is due, the Respondents shall be in default and the remaining unpaid balance of the penalty, plus any accrued interest, shall be due and owing immediately. In the event of default, the Complainant shall be entitled to reasonable costs of collection, including reasonable attorney's fees.

2. Pursuant to Section 42(g) of the Act, interest shall accrue on any penalty amount owed by the Respondents not paid within the time prescribed herein. Interest on unpaid penalties shall begin to accrue from the date such are due and continue to accrue to the date full payment is received. Where partial payment is made on any penalty amount that is due, such partial payment shall be first applied to any interest on unpaid penalties then owing.

**C. Payment Procedures**

1. 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

2. The case name and case number shall appear on the face of the certified check or money order.

3. A copy of the certified check or money order and any transmittal letter shall be sent to:

Jamie D. Getz  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
69 W. Washington Street, Suite 1800  
Chicago, Illinois 60602

**D. Future Compliance**

1. The Respondents shall comply with the terms and conditions of Supplemental Permit No. 2013-455-SP and Modification Number No. 11 of Permit No. 1994-065-LFM.

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 Respondents' 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 Respondents 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 Respondents shall cease and desist from future violations of the Act and

Board Regulations that were the subject matter of the Complaint and the additional alleged violations referenced in Section I.C. of this Stipulation.

**E. Release from Liability**

In consideration of the Respondents' payment of the \$75,000.00 penalty, their commitment to cease and desist as contained in Section V.D.4 above, and upon the Board's approval of this Stipulation, the Complainant releases, waives and discharges the Respondents from any further liability or penalties for the violations of the Act and Board regulations that were the subject matter of the Complaint and the additional alleged violations referenced in Section I.C. of this Stipulation herein. The release set forth above does not extend to any matters other than those expressly specified in Complainant's Complaint filed on December 22, 2005 and the additional violations referenced in Section I.C. of this Stipulation. The Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against the Respondents 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 Respondents' 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 Respondents.

**E. Enforcement 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.

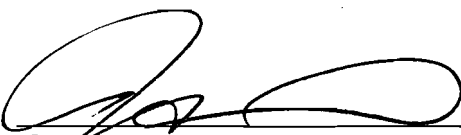
PEOPLE OF THE STATE OF ILLINOIS      ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

LISA MADIGAN  
Attorney General  
State of Illinois

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

LISA BONNETT, Director  
Illinois Environmental Protection Agency

BY:   
ELIZABETH WALLACE, Chief  
Assistant Attorney General  
Environmental Bureau

BY:   
JOHN J. KIM  
Chief Legal Counsel

DATE: 10/8/14

DATE: 10/6/14

NATIONAL CITY ENVIRONMENTAL,  
LLC

NATIONAL CITY RECYCLING, LLC

BY: \_\_\_\_\_

BY: \_\_\_\_\_

Its \_\_\_\_\_  
(title)

Its \_\_\_\_\_  
(title)

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

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

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

LISA BONNETT, Director  
Illinois Environmental Protection Agency

BY: \_\_\_\_\_  
ELIZABETH WALLACE, Chief  
Assistant Attorney General  
Environmental Bureau

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

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

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

NATIONAL CITY ENVIRONMENTAL,  
LLC

NATIONAL CITY RECYCLING, LLC

BY: Mr. Puhst  
Its Owner  
(title)

DATE: 10/13/14

BY: Mr. Puhst  
Its Owner  
(title)

DATE: 10/13/14