

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB NO.
)	(Enforcement)
)	
SUN AG, INC., an Illinois Corporation,)	
)	
Respondent.)	

NOTICE OF ELECTRONIC FILING

PLEASE TAKE NOTICE that on October 23, 2014, 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 COMPLAINT, STIPULATION AND PROPOSAL FOR SETTLEMENT, and MOTION FOR RELIEF FROM HEARING REQUIREMENT 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: s/Amanda Kimmel
AMANDA KIMMEL
Assistant Attorney General
Environmental Bureau

Amanda Kimmel #6303715
500 South Second Street
Springfield, Illinois 62706
217-782-9031

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PEOPLE OF THE STATE OF)	
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COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, SUN AG, INC., as follows:

COUNT I
WATER POLLUTION

1. This Complaint is brought by the Attorney General on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(2012).

2. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4(2012), and charged, *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board ("Board").

3. This Complaint is brought pursuant to Section 31 of the Act, 415 ILCS 5/31(2012), after providing the Respondent with notice and the opportunity for a meeting with the Illinois EPA.

4. Sun Ag, Inc., ("Respondent") an Illinois corporation, operates an agricultural chemical retail facility. Respondent is registered and in good standing with the Illinois Secretary

of State. The registered agent is David Neisler at 2702 County Road 800 North, El Paso, Illinois, 61738.

5. A spray truck driven by Respondent's employee overturned while hauling a load of pesticide, which occurred near 2301 Sheridan Road, Pekin, Illinois 61554 ("site"). The legal description of the site is NE ¼, Section 32, R4W (Groveland Township) in Tazewell County, Illinois.

6. The site is approximately 50-100 feet north of Sheridan Road where the gravel lane crosses over an unnamed tributary to Lick Creek, and Lick Creek is a tributary to the Illinois River.

7. Section 3.165 of the Act, 415 ILCS 5/3.165 (2012), provides the following definition:

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

8. Roundup POWER MAX™ is a contaminant as that term is defined in 415 ILCS 5/3.165 (2012).

9. Section 3.545 of the Act, 415 ILCS 5/3.545 (2012), provides the following definition:

'WATER POLLUTION' is such alteration of the physical, thermal, chemical, biological, or radioactive properties of any waters of the State, or such discharge of any contaminant into any waters of the State, as will or is likely to create a nuisance or render such water harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

10. Section 3.550 of the Act, 415 ILCS 5/3.550 (2012), provides the following definition:

'WATERS' means all accumulations of water, surface and underground,

natural, and artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon this State.

11. The unnamed tributary to Lick Creek and Lick Creek are waters of the state as that term is defined in 415 ILCS 5/3.550 (2012).

12. Section 12(a) of the Act, 415 ILCS 5/12(a)(2012), provides, in pertinent part, as follows:

No person shall:

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

13. Section 302.210 of the Illinois Pollution Control Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.210, provides, in pertinent part:

Waters of the State shall be free from any substances or combination of substances in concentrations toxic or harmful to human health, or to animal, plant or aquatic life. Individual chemical substances or parameters for which numeric standards are specified in the Subpart are not subject to this Section.

- a) Any substance or combination of substances shall be deemed to be toxic or harmful to aquatic life if present in concentrations that exceed the following:
 - 1) An Acute Aquatic Toxicity Criterion (AATC) validly derived and correctly applied pursuant to procedures set forth in Sections 302.612 through 302.618 or in Section 302.621; or

* * * *

14. Pursuant to Section 302.210 of the Illinois Pollution Control Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.210, the acute limit for glyphosate concentration is 1.5 mg/l.

15. On May 29, 2012, Respondent's employee drove a single-axle tank truck ("nurse

truck”) which towed an AGCO Spray Coupe 4440 (“spray vehicle”). The spray vehicle is owned and operated by the Respondent. The Respondent’s employee pulled off Sheridan Road and turned north onto the narrow gravel lane. Respondent’s employee drove too close to the eastern edge of the bridge and the right rear tire of the spray vehicle went off the bridge.

16. On May 29, 2012, an Illinois EPA inspector performed an inspection of the site after receiving notice from the Illinois EPA Emergency Operations Unit.

17. On May 29, 2012, during the Illinois EPA inspection, the nurse truck remained upright with no spillage and the spray vehicle remained attached to the nurse truck and was hanging precariously off the side of the bridge. The liquid identified as pesticide Roundup POWER MAX™ spilled from the spray vehicle upon the ground and into the unnamed tributary to Lick Creek.

18. On May 29, 2012, during the Illinois EPA inspection, there was an accumulation of pink liquid in the stream and a low flow of liquid draining through the spill site and flowing downstream.

19. On May 29, 2012, the Illinois EPA inspector collected a sample from the unnamed tributary to Lick Creek. The sample was collected on the west side of the narrow land-bridge just north of Sheridan Road. The stream was turbid and contained a pink color at that location.

20. On May 30, 2012, an Illinois Department of Natural Resource’s Fisheries Biologist inspected the site and observed six dead fish and two dead earthworms.

21. The unnamed tributary to Lick Creek is identified as an intermittent stream on the USGS topographical map. The Lick Creek is identified as perennial steam on the USGS topographical map. There is a surface hydrological connection between the unnamed tributary to

Lick Creek and Lick Creek.

22. During the May 29, 2012 inspection, the unnamed tributary to Lick Creek had water flowing in it and the Illinois EPA inspector collected a sample. Analytical results indicated the following parameter levels: glyphosate 225,000 mg/l. Glyphosate is an ingredient in Roundup POWER MAX™.

23. The Respondent has caused or allowed the discharge of contaminants to waters of the State so as to cause or tend to cause water pollution in Illinois or to violate the Board's regulations or standards by spilling Roundup POWER MAX™ into the unnamed tributary to Lick Creek.

24. The discharges of contaminants by Respondent at the site have caused or allowed water pollution in that such discharges have rendered the waters of the State harmful or detrimental or injurious to public health, safety or welfare, or to agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish or other aquatic life and have likely created a nuisance.

25. By causing or allowing the discharge of contaminants into waters of the State so as to cause or tend to cause water pollution or to violate the Board's regulations or standards, the Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2012).

26. By causing or allowing a point source discharge from the discharge of pesticide with glyphosate levels that exceed the State's limits, the Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a)(2012), and Section 302.210 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.210.

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent, SUN AG, INC.:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a), imposing upon the Respondent for every violation a civil penalty of fifty thousand dollars (\$50,000) for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000) for each day during which each such violation has continued thereafter;
- E. Awarding to Complainant its costs and reasonable attorney's fees; and
- F. Granting such other relief as the Board may deem appropriate.

COUNT II
WATER POLLUTION HAZARD

1-24. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 24 of Count I as paragraphs 1 through 24 of this Count II.

25. Section 12(d) of the Act, 415 ILCS 5/12(d) (2012), provides, in pertinent part, as follows:

No person shall:

* * * *

- (d) Deposit any contaminants upon the land in such place and manner so as to create a water pollution hazard;

26. The Respondent has caused or allowed contaminants to be deposited upon the land

in such place and manner as to create a water pollution hazard through its proximity to unnamed tributary to Lick Creek.

27. By depositing contaminants upon the land in such a place and manner as to create a water pollution hazard, the Respondent has violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2012).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent, SUN AG, INC.:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a), imposing upon the Respondent for every violation a civil penalty of fifty thousand dollars (\$50,000) for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000) for each day during which each such violation has continued thereafter;
- E. Awarding to Complainant its costs and reasonable attorney's fees; and
- F. Granting such other relief as the Board may deem appropriate.

COUNT III
OFFENSIVE CONDITIONS

1-24. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 24 of Count I as paragraphs 1 through 24 of this Count III.

25. Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203, provides, in pertinent part:

Waters of the State shall be free from sludge or bottom deposits, floating debris, visible oil, odor, plant or algal growth, color or turbidity of other than natural origin. The allowed mixing provisions of Section 302.102 shall not be used to comply with the provisions of this Section.

26. The May 29, 2012 discharge of Roundup POWER MAX™ from Respondent's spray vehicle at the site caused the unnamed tributary to Lick Creek, to turn a pink color and become turbid.

27. By allowing the spray vehicle to overturn in such a manner as to allow a discharge of Roundup POWER MAX™ and cause unnatural colorations in the waters of the unnamed tributary to Lick Creek, Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a), and Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203.

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent, SUN AG, INC.:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a), imposing upon the Respondent for every violation a civil penalty of fifty thousand dollars (\$50,000) for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000) for each day during which each such violation has continued thereafter;

- E. Awarding to Complainant its costs and reasonable attorney's fees; and
- F. Granting such other relief as the Board may deem appropriate.

Respectfully submitted,

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

BY: *Matthew J. Dunn*
MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

Of Counsel
AMANDA KIMMEL
ARDC# 6303715
500 South Second Street
Springfield, Illinois 62706
217/557-5767
Dated:

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STIPULATION AND PROPOSAL FOR SETTLEMENT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, the Illinois Environmental Protection Agency (“Illinois EPA”), and SUN AG, 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 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. A Complaint was filed simultaneous with this Stipulation 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 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 (2012).

3. At all times relevant to the Complaint, Respondent owned and operated an agricultural chemical retail facility located at 24480 Allentown Road, Tremont, Illinois.

4. The location that is the subject of this complaint, where the spray truck driven by Respondent's employee overturned while hauling a load of pesticide, is near 2301 Sheridan Road, Pekin, Illinois 61554 ("site"). The legal description of the site is NE ¼, Section 32, R4W (Groveland Township) in Tazewell County, Illinois.

5. The site is approximately 50-100 feet north of Sheridan Road where the gravel lane crosses over an unnamed tributary to Lick Creek, and Lick Creek is a tributary to the Illinois River.

6. On May 29, 2012, Respondent's employee drove a single-axel tank truck ("nurse truck") which towed an AGCO Spray Coupe 4440 ("spray vehicle"). The spray vehicle is owned and operated by the Respondent. The Respondent's employee pulled off Sheridan Road and turned north onto the narrow gravel lane. Respondent's employee drove too close to the eastern edge of the bridge and the right rear tire of the spray vehicle went off the bridge.

7. On May 29, 2012, an Illinois EPA inspector performed an inspection of the site after receiving notice from the Illinois EPA Emergency Operations Unit.

8. On May 29, 2012, during the Illinois EPA inspection, the nurse truck remained upright with no spillage and the spray vehicle remained attached to the nurse truck and was hanging precariously off the side of the bridge. The liquid identified as pesticide Roundup POWER MAX™ spilled from the spray vehicle upon the ground and into the unnamed tributary

to Lick Creek.

9. On May 29, 2012, during the Illinois EPA inspection, there was an accumulation of pink liquid in the stream and a low flow of liquid draining through the spill site and flowing downstream.

10. On May 29, 2012, the Illinois EPA inspector collected a sample from the unnamed tributary to Lick Creek. The sample was collected on the west side of the narrow land-bridge just north of Sheridan Road. The stream was turbid and contained a pink color at that location.

11. During the May 29, 2012 inspection, the unnamed tributary to Lick Creek had water flowing in it and the Illinois EPA inspector collected a sample. Analytical results indicated the following parameter levels: glyphosate 225,000 mg/l. Glyphosate is an ingredient in Roundup POWER MAX™.

B. Allegations of Non-Compliance

Complainant contends that the Respondent has violated the following provisions of the Act and Board regulations:

- Count I: Water Pollution
Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a)(2012), and Section 302.210 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.210.
- Count II: Water Pollution Hazard
Respondent has violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2012).
- Count III: Offensive Conditions
Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a), and Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203.

C. Non-Admission of Violations

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

D. Compliance Activities to Date

1. Sandbags and earthen dams were placed downstream of the spill site.
2. Respondent hired Klean Wash, Inc. and Bodine to clean up the spill. A vacuum truck was utilized and the stream was flushed clean and all impacted water was recovered. Illinois Department of Agriculture approved the land application of the recovered water.

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 (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 contends that the human health and the environment were threatened by the Respondent's violations.
2. There is social and economic benefit to the Respondent's facility.
3. Operation of the Respondent's facility was suitable for the area in which it occurred.
4. Transporting chemicals without causing them to be spilled upon the land and water 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)(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 violation began on or about May 29, 2012 and was confirmed clean by sample results on July 26, 2012.
2. Respondent was diligent in attempting to come back into compliance with the Act, Board regulations and applicable federal regulations, once the Illinois EPA notified it of its noncompliance.
3. Economic benefit of noncompliance would be nominal.
4. Complainant has determined, based upon the specific facts of this matter, that a penalty of Six Thousand (\$6,000.00) 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. Respondent did not self-disclose the violation pursuant to 415 ILCS 5/42(i); however, Respondent was required by law to disclose the incident to Illinois Emergency Management Agency and did so.

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

8. On September 14, 2012, Respondent submitted a Compliance Commitment Agreement to the Illinois EPA. On October 18, 2012, the Illinois EPA sent Respondent a Notice of Non-Issuance.

V. TERMS OF SETTLEMENT

A. Penalty Payment

1. The Respondent shall pay a civil penalty in the sum of Six Thousand Dollars (\$6,000.00) 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 make any payment required by this Stipulation on or before the date upon which the payment is due, the Respondent shall be in default and the remaining unpaid balance of the penalty, plus any accrued interest, shall be due and owing immediately. In the event of default, the Complainant shall be entitled to reasonable costs of collection, including reasonable attorney's fees.

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

payment shall be first applied to any interest on unpaid penalties then owing.

C. Payment Procedures

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, 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 the certified check or money order and any transmittal letter shall be sent to:

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

D. Future Compliance

1. Within 30 days of the Board's Order accepting the Stipulation, Respondent shall develop and submit to Illinois EPA a written Emergency Response Plan (the "Plan") to deal with potential future pesticide and/or fertilizer spills. The plan shall, at a minimum, provide for (1) the immediate notification of the Illinois EPA and the Illinois Emergency Management Agency in the event of a pesticide or fertilizer spill; and (2) prompt containment of any spilled material.

2. 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.

3. 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 \$6,000.00 penalty, its commitment to cease and desist as contained in Section V.D. above, and 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 simultaneous with the Stipulation. 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

Amanda Kimmel
Assistant Attorney General
Environmental Bureau
500 South Second Street
Springfield, Illinois 62702

Mike Roubitchek
Assistant Counsel
Illinois EPA
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

Eric Ackerman
Bureau of Water
Illinois EPA
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

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.

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

LISA BONNETT, Director
Illinois Environmental Protection Agency

BY: Matthew J. Dunn
MATTHEW J. DUNN, Chief
Environmental Enforcement/
Asbestos Litigation Division

BY: [Signature]
JOHN J. KIM
Chief Legal Counsel

DATE: 10/21/14

DATE: 10/17/14

SUN AG, INC.

BY: David Neister
Name: David Neister
Title: President

DATE: Sept 26, 2014

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

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

BY: s/Amanda Kimmel
AMANDA KIMMEL
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
217/782-9031

CERTIFICATE OF SERVICE

I hereby certify that I did on October 23, 2014, cause to be served by Certified Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box in Springfield, Illinois, a true and correct copy of the following instruments entitled NOTICE OF ELECTRONIC FILING, COMPLAINT, STIPULATION AND PROPOSAL FOR SETTLEMENT and MOTION FOR RELIEF FROM HEARING REQUIREMENT upon the following:

Sun Ag, Inc.
c/o David Neisler
Registered Agent
2702 County Road 800 North
El Paso, IL 61738

Carol Webb
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
Springfield, IL 62794

s/ Amanda Kimmel
AMANDA KIMMEL
Assistant Attorney General

This filing is submitted on recycled paper.