

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD


PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.)
)
 PCB No. 15-
)
 (Enforcement - Air)
)
QUALITY SAND PRODUCTS, LLC,)
an Illinois limited liability company,)
)
 Respondent.)

NOTICE OF FILING

TO: See Attached Service List

PLEASE TAKE NOTICE that on the 19th day of March 2015, I filed with the Clerk of the Illinois Pollution Control Board the Complaint, Stipulation and Proposal for Settlement, and a Motion to Request Relief from Hearing Requirement with Respondent, QUALITY SAND PRODUCTS, LLC, copies of which are attached hereto and are hereby served upon you.

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

BY: 

NANCY J. TKALSKY
Assistant Attorney General
Environmental Bureau North
69 West Washington Street, Suite 1800
Chicago, Illinois 60602
312-814-8567

DATE: March 19, 2015

THIS FILING IS SUBMITTED ON RECYCLED PAPER

SERVICE LIST

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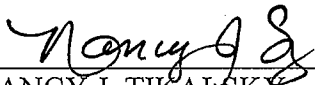
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB No. 15-
)	(Enforcement - Air)
QUALITY SAND PRODUCTS, LLC,)	
an Illinois limited liability company,)	
)	
Respondent.)	

CERTIFICATE OF ELECTRONIC SERVICE

I, NANCY J. TIKALSKY, an Assistant Attorney General, do certify that I caused to be served this 19th day of March 2015 the foregoing Complaint, Motion to Request Relief from Hearing, Stipulation and Proposal for Settlement and Notice of Filing with Respondent, QUALITY SAND PRODUCTS, LLC, by electronic mail.



NANCY J. TIKALSKY
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DATE: March 19, 2015

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	No. PCB 15 -
)	(Air and Water)
QUALITY SAND PRODUCTS, LLC,)	
an Illinois limited liability company,)	
)	
Respondent.)	

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, QUALITY SAND PRODUCTS, LLC, an Illinois limited liability corporation, as follows:

COUNT I

CONSTRUCTING EMISSION SOURCES WITHOUT A PERMIT

1. This Complaint 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 and/or at the request of the Illinois Environmental Protection Agency (“Illinois EPA”), against QUALITY SAND PRODUCTS, LLC (“QSP”), pursuant to Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2012).

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), and charged, *inter alia*, with the duty of enforcing the Act.

3. At all times relevant to this Complaint, QSP was and is a limited liability company duly authorized to do business in Illinois.

4. At all times relevant to this Complaint, QSP was and is the owner of a silica sand mining and processing facility located at 727 North 3029th Road, LaSalle, LaSalle County, Illinois ("Facility" or "Site").

5. On December 2, 2013, the Illinois EPA conducted an inspection of the Site.

6. At the time of the December 2, 2013 inspection, several concrete pads were constructed at various locations at the Site to facilitate the installation of additional sand mining and processing equipment.

7. At the time of the December 2, 2013 inspection, storage bins, a baghouse, and a drum dryer had been transported to and constructed at the Site.

8. On December 9, 2013, the Illinois EPA received from QSP a letter that included a list identifying each item of equipment transported to and installed at the Site to facilitate sand mining and processing operations. The list also identified the date each item was installed at the Site.

9. Based upon QSP's December 9, 2013 letter, QSP had constructed and installed the following mining equipment at the Site: conveyors, baghouses, a primary crusher, screens, a drum dryer, and storage bins.

10. Prior to construction, QSP failed to apply for and obtain a permit issued by the Illinois EPA authorizing the construction of the storage bins, concrete pads, conveyors, primary crusher, drum dryer, baghouses, and screens at the Facility.

11. Each of the storage bins, conveyors, primary crusher, drum dryer, and screens constructed at the Facility emits or has the potential to emit particulate matter ("PM").

12. Section 9(b) of the Act, 415 ILCS 5/9(b) (2012), provides as follows:

No person shall:

(b) Construct, install, or operate any equipment, facility, vehicle, vessel, or aircraft capable of causing or contributing to air pollution or designed to prevent air pollution, of any type designated by Board regulations, without a permit granted by the Agency, or in violation of any conditions imposed by such permit.

13. Section 3.315 of the Act, 415 ILCS 5/3.315 (2012), provides the following definition:

“Person” means 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.

14. QSP, a limited liability company, is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2012).

15. 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.

16. PM is a “contaminant” as that term is defined under Section 3.165 of the Act, 415 ILCS 5/3.165 (2012).

17. Section 3.115 of the Act, 415 ILCS 5/3.115 (2012), provides the following definition:

“Air pollution” is the presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property.

18. Because each of the storage bins, conveyors, primary crusher, drum dryer, and screens constructed and installed at the Facility is capable of emitting contaminants to the atmosphere in the form of PM in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property, each is capable of causing or contributing to "air pollution" as that term is defined in Section 3.115 of the Act, 415 ILCS 5/3.115 (2012).

19. Section 201.142 of the Illinois Pollution Control Board ("Board") Air Pollution Regulations, 35 Ill. Adm. Code 201.142, provides as follows:

No person shall cause or allow the construction of any new emission source or any new air pollution control equipment, or cause or allow the modification of any existing emission source or air pollution control equipment, without first obtaining a construction permit from the Agency, except as provided in Sections 201.146 or Section 201.170(b) of this Part.

20. Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102, contains the following definitions:

"Air Contaminant": any solid, liquid or gaseous matter, any odor or any form of energy, that is capable of being released into the atmosphere from an emission source.

"Construction": commencement of on-site fabrication, erection or installation of an emission source or of air pollution control equipment.

"Emission Source": any equipment or facility of a type capable of emitting specified air contaminants to the atmosphere.

"New Emission Source": any emission source, the construction or modification of which is commenced on or after April 14, 1972.

“Specified Air Contaminant”: any air contaminant as to which this Subtitle contains emissions standards or other specific limitations.

21. Part 212 of Subchapter C of Chapter I of Subtitle B of the Board Air Pollution Regulations, Ill. Adm. Code Subt. B, Ch. I, Subch. C, Pt. 212, contains emissions standards for PM.

22. PM is an “air contaminant” and “specified air contaminant” as those terms are defined in Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102.

23. Because each of the storage bins, conveyors, primary crusher, drum dryer, and screens is capable of emitting PM, a specified air contaminant, into the atmosphere, each is an “emission source” as that term is defined by 35 Ill. Adm. Code 201.102.

24. Each of the storage bins, conveyors, primary crusher, drum dryer, and screens had been constructed after April 14, 1972, on a date or dates better known to QSP, and constitutes a “new emission source,” as that term is defined in Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102.

25. On dates better known to QSP, QSP caused or allowed the construction of the storage bins, conveyors, a primary crusher, a drum dryer, and screens at the Facility without applying for and obtaining a construction permit from the Illinois EPA, in violation of Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142, and thereby Section 9(b) of the Act, 415 ILCS 5/9(b) (2012).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent QUALITY SAND PRODUCTS, LLC, with respect to Count I:

1. Authorizing a hearing in this matter at which Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2012), and Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142;
3. Ordering Respondent to cease and desist from any further violations of Section 9(b) of the Act, 415 ILCS 5/9(b) (2012), and Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142;
4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent regulations, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
5. Ordering Respondent to pay all costs 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

CONSTRUCTING AIR POLLUTION CONTROL EQUIPMENT WITHOUT A PERMIT

- 1-21. Plaintiff realleges and incorporates by reference paragraphs 1 through 10, 12 through 17, and 19 through 23 of Count I as paragraphs 1 through 21 of this Count II.
22. The baghouses constructed at the Facility are designed to eliminate, prevent, reduce, or control the emission of PM.
23. Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102 (2010), contains the following definitions:

"Air Pollution Control Equipment": any equipment or facility of a type intended to eliminate, prevent, reduce or control the emission of specified air contaminants to the atmosphere.

"New Air Pollution Control Equipment": any air pollution control equipment, the construction or modification of which is commenced on or after April 14, 1972.

24. The Baghouses were constructed after April 14, 1972, on dates better known to QSP, and are "air pollution control equipment" and "new air pollution control equipment," as those terms are defined in Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102.

25. By constructing new air pollution control equipment in the form of Baghouses at the Site without a construction permit issued by the Illinois EPA, QSP violated Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142, and thereby violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2012).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent QUALITY SAND PRODUCTS, LLC, with respect to Count II:

1. Authorizing a hearing in this matter at which Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2012), and Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142;
3. Ordering Respondent to cease and desist from any further violations of Section 9(b) of the Act, 415 ILCS 5/9(b) (2012), and Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142;
4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent regulations, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Ordering Respondent to pay all costs 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 PROVIDE NOTIFICATION OF THE CONSTRUCTION DATE

1-13. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 11 and 13 and 14 of Count I of this Complaint as paragraphs 1 through 13 of this Count III.

14. Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2012), provides as follows:

(d) No person shall:

1. Violate any provisions of Sections 111, 112, 165 or 173 of the Clean Air Act, as now or hereafter amended, or federal regulations adopted pursuant thereto.

15. The United States Environmental Protection Agency (“USEPA”) has approved the State of Illinois State Implementation Plan for National Ambient Air Quality Standards under section 110 of the Clean Air Act, authorizing the Illinois EPA to administer the Clean Air Act in compliance with federal regulations, including PM 2.5 and 10.0 discharges regulated by 40 CFR 60, which includes Standards of Performance for New Stationary Sources for the construction of stationary sources.¹

16. Section 60.7(a)(1) of the Code of Federal Regulations (“CFR”), 40 CFR 60.7(a)(1), provides in pertinent part as follows:

- (a) Any owner or operator subject to the provisions of this part shall furnish the Administrator written notification or, if acceptable to both the Administrator and the owner and operator of a source, electronic notification, as follows:

¹ See 40 C.F.R. § 52.722

(1) A notification of the date construction (or reconstruction as defined under § 60.15) of an affected facility is commenced postmarked no later than 30 days after such date.

17. Section 302 of the Clean Air Act, 42 U.S.C.A. § 7602, provides the following pertinent definition:

(g) "Air Pollutant" means any air pollution agent or combination of such agents, including any physical, chemical, biological, radioactive (including source material, special nuclear material, and byproduct material) substance or matter which is emitted into or otherwise enters the ambient air. Such term includes any precursors to the formation of any air pollutant, to the extent the Administrator has identified such precursor or precursors for the particular purpose for which the term "air pollutant" is used.

18. Section 60.2 of the CFR, 40 CFR § 60.2, provides the following definitions:

"Administrator" means the Administrator of the Environmental Protection Agency or his authorized representative.

"Affected facility" means, with reference to a stationary source, any apparatus to which a standard is applicable.

"Owner or operator" means any person who owns, leases, operates, controls, or supervises an affected facility or a stationary source of which an affected facility is a part.

"Stationary source" means any building, structure, facility, or installation which emits or may emit any air pollutant.

19. The Illinois EPA is "administrator" as that term is defined in Section 60.2 of the CFR, 40 CFR § 60.2.

20. PM is an "air pollutant" as that term is defined in Section 302 of the Clean Air Act, 42 U.S.C.A. § 7602.

21. The construction and installation of equipment for the sand mine and processing facility at the Site, which emits or may emit PM, an air pollutant, is a "stationary source" and thereby an "affected facility" as those terms are defined in 40 C.F.R. § 60.2.

22. QSP is an "owner or operator" of an affected facility as that term is defined in 40 C.F.R. § 60.2, and as such QSP is subject to the provisions 40 C.F.R. Part 60.

23. QSP failed to notify the Illinois EPA of the actual date of construction of sand mine and processing facility within 30 days of commencing construction, thereby violating 40 C.F.R. § 60.7(a).

24. By failing to notify the Illinois EPA of the date of construction operations of the Facility, QSP violated federal regulation 40 C.F.R. § 60.7(a), and, thereby, violated Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2012).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent QUALITY SAND PRODUCTS, LLC, with respect to Count III:

1. Authorizing a hearing in this matter at which Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2012), and 40 C.F.R. § 60.7(a);
3. Ordering Respondent to cease and desist from any further violations of Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2012), and 40 C.F.R. § 60.7(a);
4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent regulations, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
5. Ordering Respondent to pay all costs 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 SUBMIT CONSTRUCTION PERMIT FEE

1-28. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 25 of Count I, and paragraphs 22 through 24 of Count II of this Complaint as paragraphs 1 through 28 of this Count IV.

29. Section 9.12 of the Act, 415 ILCS 5/9.12 (2012), provides as follows:

- (a) An applicant for a new or revised air pollution construction permit shall pay a fee, as established in this Section, to the Agency at the time he or she submits the application for a construction permit. Except as set forth below, the fee for each activity or category listed in this Section is separate and is cumulative with any other applicable fee listed in this Section.

30. Prior to commencing construction of sand mine and processing facility at the Site, QSP failed to timely submit a fee to the Illinois EPA for a construction permit authorizing construction of the storage bins, concrete pads, conveyors, primary crusher, drum dryer, screens and baghouses.

31. By failing to submit a fee to the Illinois EPA for a construction permit QSP violated Section 9.12 of the Act, 415 ILCS 5/9.12 (2012).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent QUALITY SAND PRODUCTS, LLC, with respect to Count IV:

1. Authorizing a hearing in this matter at which Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Section 9.12 of the Act, 415 ILCS 5/9.12 (2012);

3. Ordering Respondent to cease and desist from any further violations of Section 9.12 of the Act, 415 ILCS 5/9.12 (2012);

4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Ordering Respondent to pay all costs 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

WATER POLLUTION

1-12. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 9, and 13 through 15 of Count I of this Complaint as paragraphs 1 through 12 of this Count V.

13. Storm water drains from the Site into Pecumsaugon Creek, which discharges to the Illinois and Michigan Canal ("I&M Canal"), which discharges into the Illinois River.

14. On October 7, 2013, the Illinois EPA conducted an inspection of the Site.

15. At the time of the October 7, 2013 inspection, the area of the construction at the Site exceeded one acre.

16. At the time of the October 7, 2013 inspection, QSP had constructed a concrete pad and gravel work area at the Site for the silica sand mine.

17. At the time of the October 7, 2013 inspection, QSP had constructed at least one storm water drain at the Site.

18. At the time of the October 7, 2013 inspection, there were no soil erosion controls installed at the storm water drain.

19. At the time of the October 7, 2013 inspection, waste concrete materials from washout activities of the mine construction were deposited on the ground near the storm water drains at the Site.

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

No person shall:

(a) Cause or threaten or allow the discharge of any contaminants into the environment of 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.

21. The waste concrete materials deposited at the Site are a "contaminant," as that term is defined by Section 3.165 of the Act, 415 ILCS 5/3.165 (2012).

22. 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 waters harmful or detrimental or injurious to public health, safety or welfare, or domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

23. 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 the State.

24. Pecumsaugon Creek, the I&M Canal, and the Illinois River constitute “waters” as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2012).

25. On a date or dates prior to October 7, 2013, better known to the QSP, QSP constructed at least one storm water drain without installing soil erosion controls, and thereby caused, threatened, or allowed the discharge of waste concrete materials, a contaminant, into the waters of the State.

26. The deposition of waste concrete materials near the storm water drain at the Site has caused or tended to cause water pollution, in that such discharges will or have likely rendered the waters of the State 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, and have likely created a nuisance.

27. By causing or threatening or allowing the discharge of contaminants in such a manner as to cause or tend to cause water pollution, QSP has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2012).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent QUALITY SAND PRODUCTS, LLC, with respect to Count V:

1. Authorizing a hearing in this matter at which Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2012);

3. Ordering Respondent to cease and desist from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2012);

4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Ordering Respondent to pay all costs 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

CREATING A WATER POLLUTION HAZARD

1-26. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 20, and 22 through 27 of Count V of this Complaint as paragraphs 1 through 26 of this Count VI.

27. Section 12(d) of the Act, 415 ILCS 5/12(d) (2012), provides as follows:

No person shall:

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

28. From at least October 7, 2013 through June 17, 2014, on dates better known to the Defendant, the Defendant caused or allowed waste concrete materials from the sand mine construction to be deposited at the Site, such that the materials entered or could have entered into the Pecumsaugon Creek, the I&M Canal, and the Illinois River, thereby, QSP depositing contaminants upon the land in such place and manner as to create a water pollution hazard in violation of Section 12(d) of the Act, 415 ILCS 5/12(d) (2012).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent QUALITY SAND PRODUCTS, LLC, with respect to Count VI:

1. Authorizing a hearing in this matter at which Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2012);
3. Ordering Respondent to cease and desist from any further violations of Section 12(d) of the Act, 415 ILCS 5/12(d) (2012);
4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
5. Ordering Respondent to pay all costs 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

**CONSTRUCTING A MINING FACILITY CAPABLE OF CAUSING
OR CONTRIBUTING TO WATER POLLUTION WITHOUT A NATIONAL
POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT**

1-23. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 10, and 13 through 15 of Count I, and paragraphs 14 through 20, and 22 through 24 of Count V of this Complaint as paragraphs 1 through 23 of this Count VII.

24. Prior to beginning construction of the Facility, QSP failed to apply for and obtain a National Pollutant Discharge Elimination System ("NPDES") mining permit authorizing construction of the Facility.

25. As of the date of filing of this Complaint, the Illinois EPA has not issued a NPDES mining or state permit for construction or operation of the mining Facility.

26. Section 12(f) of the Act, 415 ILCS 5/12(f) (2012), provides as follows:

No person shall:

(f) Cause, threaten, or allow the discharge of any contaminant into the waters of the State, as defined herein, including but not limited to, any waters to any sewage works, or into any well or from any point source within the State, without an NPDES permit for point source discharges issued by the Agency under Section 39(b) of this Act, or in violation of any NPDES permit filing requirement established under Section 39(b), or in violation of any regulations adopted by the Board or of any order adopted by the Board with respect to the NPDES program.

27. The CWA regulates the discharge of pollutants from a point source into navigable waters and prohibits such point source discharges without an NPDES permit. The USEPA administers the NPDES program in each State unless the USEPA has delegated authority to do so to that State.

28. The USEPA has authorized the State of Illinois to issue NPDES permits, through the Illinois EPA in compliance with federal regulations, including storm water discharges regulated by 40 CFR 122.26, which requires a person to obtain an NPDES permit and to implement a storm water pollution prevention plan for construction activity including clearing, grading and excavation.

29. Section 309.103 of the Board NPDES Permit Regulations, 35 Ill. Adm. Code 309.103 provides as follows:

c) Mining Activities

- 1) If, as defined by 35 Ill. Adm. Code 402.101, mining activities are to be carried out on a facility for which an NPDES Permit is held or required, the applicant must submit a permit application as required by 35 Ill. Adm. Code 403.103, 403.104 and 405.104. If the facility will have a discharge other than a mine discharge or non-point source mine discharge as defined by 35 Ill. Adm. Code 402.101, the applicant shall also submit an NPDES Permit application in accordance with Section 309.223 on forms supplied by the Agency.

30. Section 402.101 of the Board NPDES Mining Permit Regulations, 35 Ill. Adm.

Code 402.101, provides the following definition:

“Mining Activities”: all activities on a facility which are directly in furtherance of mining, including activities before, during and after mining. The term does not include land acquisition, exploratory drilling, surveying and similar activities. The term includes, but is not limited to, the following:

Preparation of land for mining activities;

Construction of mine related facilities which could generate refuse, result in a discharge or have the potential to cause water pollution;

Ownership or control of a mine related facility;

* * *

Generation or disposal of mine refuse;

Mining;

Opening a mine;

Production of a mine discharge or non-point source mine discharge;

Surface drainage control; and

* * *

31. Constructing storage bins, concrete pads, conveyors, baghouses, a primary crusher, drum dryer, and screens at the Site are "mining activities" as that term is defined under Section 402.101, of the Board NPDES Permit Regulations, 35 Ill. Adm. Code 402.101.

32. Section 403.104 of the Board NPDES Permit Regulations, 35 Ill. Adm. Code 403.104 provides as follows:

- a) No person shall prepare land for mining activities or construct a mine related facility for which an NPDES permit is required unless:
 - 1) The person holds an NPDES permit containing as a condition a construction authorization for the preparation or construction; or
 - 2) The person holds a construction permit for the preparation or construction issued pursuant to Section 404.101.

33. By engaging in mining activities by constructing storage bins, concrete pads, conveyors, a primary crusher, drum dryers, and screens at the Site without a NPDES permit, QSP violated Section 403.104 of the Board NPDES Permit Regulations, 35 Ill. Adm. Code 403.104, and thereby violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2012).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent QUALITY SAND PRODUCTS, LLC, with respect to Count VII:

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

2. Finding that Respondent has violated Sections 12(f) of the Act, 415 ILCS 5/12(f) (2012), and Section 403.104 of the Board NPDES Permit Regulations, 35 Ill. Adm. Code 403.104;

3. Ordering Respondent to cease and desist from any further violations of Section Sections 12(f) of the Act, 415 ILCS 5/12 (f) (2012), and Section 403.104 of the Board NPDES Permit Regulations, 35 Ill. Adm. Code 403.104;

4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent regulations, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of each violation;

5. Ordering Respondent to pay all costs 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 VIII

FAILURE TO OBTAIN GENERAL NPDES PERMIT FOR STORMWATER DISCHARGES ASSOCIATED WITH CONSTRUCTION SITE

1-25. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 18, 20, and 22 through 24 of Count V, and paragraphs 26 through 28 of Count VII of this Complaint as paragraphs 1 through 25 of this Count VIII.

26. Section 309.102(a) of the Board's NPDES Permit Regulations, 35 Ill. Adm. Code 309.102(a), provides as follows:

(a) Except as in compliance with the provisions of the Act, Board regulations, and the CWA, and the provisions and conditions of the NPDES permit issued to the discharger, the discharge of any contaminant or pollutant by any person into the waters of the State from a point source or into a well shall be unlawful.

27. In pertinent part, 40 CFR 122.26(a)(9)(i)(B), provides as follows:

(a) Permit requirement.

*

*

*

(9)(i) On and after October 1, 1994, for discharges composed entirely of storm water, ..., operators shall be required to obtain a NPDES permit only if:

* * *

(B) The discharge is a storm water discharge associated with small construction activity pursuant to paragraph (b)(15) of this section;

28. In pertinent part, 40 CFR 122.26(b)(15), provides as follows:

(b) Definitions.

* * *

(15) Storm water discharge associated with small construction activity means the discharge of storm water from:

(i) Construction activities including clearing, grading, and excavating that result in land disturbance of equal to or greater than one acre and less than five acres. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres. ...

* * *

29. Section 401.11(d) of the Code of Federal Regulations ("C.F.R."), 40 C.F.R.

401.11(d), provides as follows:

The term point source means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.

30. Respondent's concrete wash-out activities during the construction of the Facility is a "point source," within the meaning of 40 C.F.R. 401.11(d).

31. From at least October 7, 2013, through June 17, 2014, or dates better known by QSP, QSP caused, threatened, or allowed the discharge of waste concrete materials from the Site into storm water drains and, thereby, caused, threatened, or allowed the discharge of a contaminant from a point source into the waters of the State in violation of Section 309.102(a) of the Board's NPDES Permit Regulations, 35 Ill. Adm. Code 309.102, and thereby violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2012).

32. By causing, threatening, or allowing the discharge of a contaminant into the waters of the State from a point source, without first obtaining coverage under the general NPDES permit for point source discharges issued by the Agency, QSP violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2012).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent QUALITY SAND PRODUCTS, LLC, with respect to Count VIII:

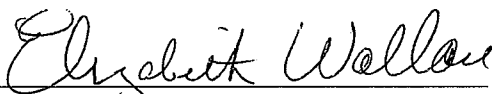
1. Authorizing a hearing in this matter at which Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Sections 12(f) of the Act, 415 ILCS 5/12(f) (2012), and Section 309.102(a) of the Board NPDES Permit Regulations, 35 Ill. Adm. Code 309.102(a);
3. Ordering Respondent to cease and desist from any further violations of Sections 12(f) of the Act, 415 ILCS 5/12(f) (2012), and Section 309.102(a) of the Board NPDES Permit Regulations, 35 Ill. Adm. Code 309.102(a);
4. Assessing a civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of each violation of the Act;

5. Ordering Respondent to pay all costs 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


ELIZABETH WALLACE, Chief
Environmental Bureau
Assistant Attorney General

Of Counsel:

NANCY J. TIKALSKY
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington St., Suite 1800
Chicago, Illinois 60602
(312) 814-8567

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB No. 15-
)	(Enforcement - Air)
QUALITY SAND PRODUCTS, LLC,)	
an Illinois limited liability company,)	
)	
Respondent.)	

MOTION TO REQUEST RELIEF FROM HEARING REQUIREMENT

NOW COMES the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and requests relief from the hearing requirement in the above-captioned matter. In support thereof, the Complainant states as follows:

1. On March 19, 2015, a Complaint was filed with the Illinois Pollution Control Board (“Board”) in this matter. On March 13, 2015, a Stipulation and Proposal for Settlement with Respondent, QUALITY SAND PRODUCTS, LLC, was filed with the Board.

2. Section 31(c)(2) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31(c)(2) (2012), effective August 1, 1996, allows the parties in certain enforcement cases to request relief from the mandatory hearing requirement where the parties have submitted to the Board a stipulation and proposal for settlement.

3. Section 31(c)(2) of the Act, 415 5/31(c)(2) (2012), provides as follows:

Notwithstanding the provisions of subdivision (1) of this subsection (c), whenever a complaint has been filed on behalf of the Agency or by the People of the State of Illinois, the parties may file with the Board a stipulation and proposal for settlement accompanied by a request for relief from the requirement of a hearing pursuant to subdivision (1). Unless the

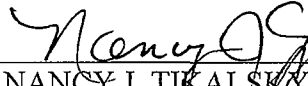
Board, in its discretion, concludes that a hearing will be held, the Board shall cause notice of the stipulation, proposal and request for relief to be published and sent in the same manner as is required for hearing pursuant to subdivision (1) of this subsection. The notice shall include a statement that any person may file a written demand for hearing within 21 days after receiving the notice. If any person files a timely written demand for hearing, the Board shall deny the request for relief from a hearing and shall hold a hearing in accordance with the provisions of subdivision (1).

4. No hearing is currently scheduled in the instant case.
5. The Complainant requests the relief conferred by Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2012).

WHEREFORE, the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, requests relief from the requirement of a hearing pursuant to 415 ILCS 5/31(c)(2) (2012).

Respectfully submitted,

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

BY: 

NANCY J. TIKALSKY
Assistant Attorney General
Environmental Bureau North
69 West Washington Street, Suite 1800
Chicago, Illinois 60602
312-814-8567
ntikalsky@atg.state.il.us

DATE: March 19, 2015

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB No. 15-
)	(Enforcement - Air)
QUALITY SAND PRODUCTS, LLC,)	
an Illinois limited liability company,)	
)	
Respondent.)	

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 QUALITY SAND PRODUCTS, LLC (“Respondent”), (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.* (2014), 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 March 19, 2015, 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 (2014), 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 (2014).

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

4. At all times relevant to this Complaint, Respondent was and is the owner of a planned silica sand mining and processing facility located near the city of LaSalle, LaSalle County, Illinois ("Facility" or "Site").

B. Allegations of Non-Compliance

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

- Count I: Constructing Emission Sources Without a Permit
Violation of Section 9(b) of the Act, 415 ILCS 5/9(b) (2014), and Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142;
- Count II: Constructing Air Pollution Control Equipment Without a Permit
Violation of Section 9(b) of the Act, 415 ILCS 5/9(b) (2014), and Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142;
- Count III: Failure to Notify of Initial Startup Date
Violation of Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2014), and 40 C.F.R. § 60.7(a);
- Count IV: Failure to Submit Construction Fee
Violation of Section 9.12 of the Act, 415 ILCS 5/9.12 (2014);
- Count V: Water Pollution
Violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2014);

- Count VI: Creating a Water Pollution Hazard
Violation of Section 12(d) of the Act, 415 ILCS 5/12(d) (2014);
- Count VII: Constructing a Mining Facility Capable of Causing or Contributing to Water Pollution Without an NPDES Permit
Violation of Section 12(f) of the Act, 415 ILCS 5/12(b) (2014), and Section 404.101 of the Board NPDES Permit Regulations, 35 Ill. Adm. Code 404.101; and
- Count VIII: Failure to Obtain General NPDES Permit for Stormwater Discharges Associated with Construction Site
Violation of Section 12(f) of the Act, 415 ILCS 5/12(f) (2014), and Section 309.102(a) of the Board NPDES Permit Regulations, 35 Ill. Adm. Code 309.102(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

Upon being notified by the Illinois EPA of violations at the Site, Respondent ceased related site development activity and obtained from the Illinois EPA a revised NPDES general storm water permit to cover the construction of storm water control measures associated with the construction of settling ponds, access road and areas associated with the equipment process building to include perimeter controls of the disturbed areas. Respondent obtained a mine-related NPDES permit authorizing construction of the Facility.

Respondent's compliance activities include the sampling of an existing well to analyze groundwater characteristics and the preparation and submission of information to the Illinois

EPA relating to the Antidegradation Assessment/Stream Assessment. Respondent submitted a revised Air Pollution Control Construction permit application and the associated fee was paid to the Illinois EPA.

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, the Board Regulations and the applicable federal 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 (2014).

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

Section 33(c) of the Act, 415 ILCS 5/33(c) (2014), 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. Human health and the environment were threatened and the Illinois EPA's information gathering responsibilities were hindered by the Respondent's violations.
2. There is social and economic benefit to the Facility.
3. Respondent obtained the appropriate local governmental entity authorization to construct the Facility consistent with zoning requirements.
4. Operating the Facility in compliance with all applicable statutory and regulatory requirements is both technically practicable and economically reasonable.
5. Respondent has subsequently complied with the Act, Board Regulations, and applicable federal regulations.

IV. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h) (2014), 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. Prior to construction activities, Respondent failed to obtain permits for the construction of several emission sources and for air pollution control equipment and pay construction permit fees. Respondent also failed to obtain NPDES permits authorizing construction of a mine processing facility and for storm water runoff discharges from the Site during construction activities. Additionally, Complainant asserts that Respondent caused or allowed concrete waste materials to be deposited at the Site and failed to install stormwater runoff controls, which threatened the discharge of concrete waste material into a storm sewer creating a water pollution hazard. The violations began on at least October 7, 2013, and were individually resolved at various times prior to December 2014.

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. The Civil penalty takes into account any economic benefit realized by the Respondent as a result of avoided or delayed compliance.

4. Complainant has determined, based upon the specific facts of this matter that a penalty of Thirty-Eight Thousand Four Hundred Dollars (\$38,400.00) 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.

8. A Compliance Commitment Agreement was not at issue in this matter.

V. TERMS OF SETTLEMENT

A. Penalty Payment

1. The Respondent shall pay a civil penalty in the sum of Thirty-Eight Thousand and Four Hundred Dollars (\$38,400.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

B. 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

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:

Nancy J. Tikalsky
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 comply with terms and conditions of its general NPDES permit that authorizes construction of its Facility. Respondent shall timely apply for and obtain all applicable permits for the Site.

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 \$38,400.00 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, Board regulations and applicable federal 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 March 19, 2015. 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 (2014), or entity other than the Respondent.

F. 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.

G. 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.

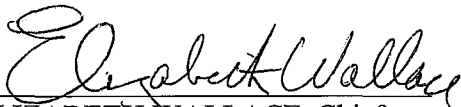
COMPLAINANT

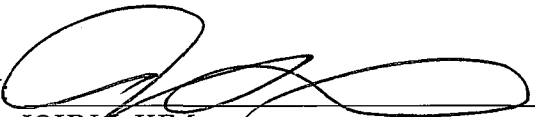
PEOPLE OF THE STATE OF ILLINOIS ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

LISA MADIGAN
Attorney General
State of Illinois

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

LISA BONNETT, Director

BY: 
ELIZABETH WALLACE, Chief
Assistant Attorney General
Environmental Bureau

BY: 
JOHN J. KIM
Chief Legal Counsel

DATE: 3/13/15

DATE: 3/6/15

RESPONDENT

QUALITY SAND PRODUCTS, LLC

By: _____
Its: _____

DATE: _____

WHEREFORE, the Parties to the Stipulation request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

COMPLAINANT

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

BY: _____
ELIZABETH WALLACE, Chief
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Environmental Bureau

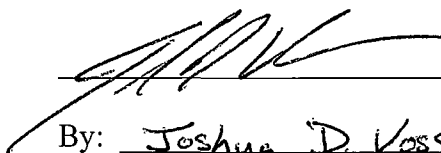
BY: _____
JOHN J. KIM
Chief Legal Counsel

DATE: _____

DATE: _____

RESPONDENT

QUALITY SAND PRODUCTS, LLC



By: Joshua D. Voss
Its: Vice President

DATE: 2/26/2015