

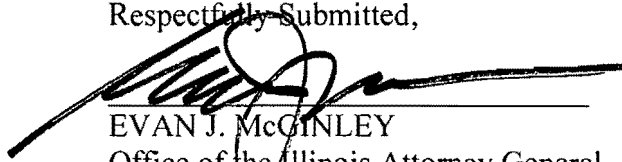
BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
) No. PCB 2011-024
v.)
) (Enforcement – Air)
U.S. CHROME CORPORATION OF)
ILLINOIS, INC., a Connecticut corporation,)
)
Respondent.)

NOTICE OF FILING

PLEASE TAKE NOTICE that today, October 9, 2015, 2015, I filed with the Office of the Clerk of the Illinois Pollution Control Board, Complainant's, People of the State of Illinois, Motion for Leave to Waive Hearing Requirement, as well as a Stipulation and Proposal for Settlement With U.S. Chrome Corporation of Illinois, Inc. in the above-referenced matter, copies of which are attached hereto and hereby served on you.

Respectfully Submitted,



EVAN J. MCGINLEY
Office of the Illinois Attorney General
69 West Washington Street, Suite 1800
Chicago, Illinois 60602
312.814.3153
emcginley@atg.state.il.us

THIS FILING SUBMITTED ON RECYCLED PAPER

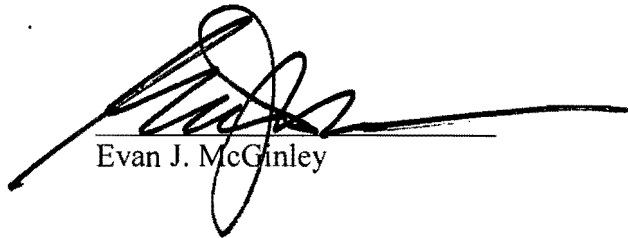
CERTIFICATE OF SERVICE

I, EVAN J. MCGINLEY, do hereby certify that, on October 9, 2015, I caused to be served on the individuals listed below, by first class mail, a true and correct copy of the attached Motion to Waive Hearing Requirement, Stipulation for Settlement and Notice of Filing:

John Therriault
Assistant Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601

Bradley Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601

Henry J. Handzel, Jr.
DeWitt, Ross and Stevens
2 E. Mifflin Street, Suite 600
Madison, Wisconsin 53703


Evan J. McGinley

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
) No. PCB 2011-024
v.)
) (Enforcement – Air)
U.S. CHROME CORPORATION OF)
ILLINOIS, INC., a Connecticut corporation,)
)
Respondent.)

MOTION TO REQUEST RELIEF FROM HEARING REQUIREMENT

Now comes Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and requests relief from the requirement of a hearing in this matter. In support thereof, the Complainant states as follows:

1. Along with this Motion, Complainant is filing a Stipulation and Proposal for Settlement executed between Complainant and Respondent U.S. Chrome Corporation of Illinois, Inc.
2. Section 31 of the Act, 415 ILCS 5/31 (2014), provides, in pertinent part, as follows:

* * *

(c)(2) 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).

* * *


3. No hearing is now scheduled in this matter.
4. The Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby requests relief from the requirement of a hearing pursuant to 415 ILCS 5/31(c)(2) (2014).

Respectfully submitted,

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

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

BY:



EVAN J. MCGINLEY
Assistant Attorney General
Environmental Bureau
69 W. Washington St., Suite 1800
Chicago, Illinois 60602
312.814.3153
emcginley@atg.state.il.us

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
) No. PCB 2011-024
v.)
) (Enforcement – Air)
U.S. CHROME CORPORATION OF)
ILLINOIS, INC., a Connecticut corporation,)
)
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 U.S. CHROME CORPORATION OF ILLINOIS, INC., (“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), the relevant Board Regulations and the National Emissions Standard for Hazardous Air Pollutants for Chromium (“Chrome NESHAP”), 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 1, 2010, 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 has been a Connecticut corporation that is authorized to transact business in the State of Illinois.

4. At all times relevant to the Complaint, Respondent has owned and operated a hard chrome plating facility, located at 305 Herbert Road, Herbert, Boone County, Illinois ("Facility").

5. On September 23, 2008, the Illinois EPA conducted an inspection of the Facility ("September 23rd Inspection"), for purposes of determining Respondent's compliance with the Act and the Chrome NESHAP. As a result of the September 23rd Inspection, and additional investigation and correspondence, the Illinois EPA determined that Respondent was in violation of various provisions of the Act, the Board Air Pollution Regulations, and the Chrome NESHAP.

B. Allegations of Non-Compliance

Complainant contends that the Respondent has violated the following provisions of the Act, Board Air Pollution Regulations, and the Chrome NESHAP;

Count I: Construction of Emission Sources without a Construction Permit, in violation of Section 9(b) of the Act, 415 ILCS 5/9(b), and Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142;

- Count II: Operation of Emission Sources without a Permit, in violation of Section 9(b) of the Act, 415 ILCS 5/9(b), and Section 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.143;
- Count III: Failure to Conduct Performance Testing and Implement Monitoring, Recordkeeping and Reporting Measures as Required Under Chrome NESHAP, in violation of Section 9.1 (d) of the Act, 415 ILCS 5/9.1 (d), and 40 C.F.R. §§63.7 and 63.343;
- Count IV: Failure to Maintain Proper Records, in violation of Section 9.1(d) of the Act, 415 ILCS 5/9.1(d), and 40 C.F.R. §63.346;
- Count V: Failure to Prepare and Submit Notice of Compliance Status, in violation of Section 9.1 (d) of the Act, 415 ILCS 5/9.1 (d), and 40 C.F.R. §63.347; and,
- Count VI: Failure to Submit the Requisite Construction Permit Fee, in violation of Section 9.12 of the Act, 415 ILCS 5/9.12.

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, the Respondent does not affirmatively admit the allegations of violation within the Complaint and referenced within Section I.B herein. Respondent specifically denies any violation has occurred 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 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

Chrome NESHAP 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).

No change in ownership, corporate status or operator of the facility shall in any way alter the responsibilities of the Respondent under this Stipulation. In the event that the Respondent proposes to sell or transfer any real property or operations subject to this Stipulation, the Respondent shall notify the Complainant thirty (30) calendar days prior to the conveyance of title, ownership or other interest, including a leasehold interest in the facility or a portion thereof. The Respondent shall make as a condition of any such sale or transfer, that the purchaser or successor provides to Respondent site access and all cooperation necessary for Respondent to perform to completion any compliance obligation(s). The Respondent shall provide a copy of this Stipulation to any such successor in interest and the Respondent shall continue to be bound by and remain liable for performance of all obligations under this Stipulation. In appropriate circumstances, however, the Respondent and a proposed purchaser or operator of the facility may jointly request, and the Complainant, in its discretion, may consider modification of this Stipulation to obligate the proposed purchaser or operator to carry out future requirements of this Stipulation in place of, or in addition to, the Respondent. This provision does not relieve the Respondent from compliance with any regulatory requirement regarding notice and transfer of applicable facility permits.

Respondent shall provide copies of this Stipulation to each contractor to be retained to perform work required under this Stipulation, including schedules for implementation of the provisions of this Stipulation to the prime vendor(s) supply the control technology system required by this Stipulation.

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. The Illinois EPA's information gathering responsibilities, and its ability to properly administer its air pollution permitting program and to enforce the Chrome NESHAP and the Act were hindered by the Respondent's alleged violations.
2. There is social and economic benefit to the Facility.
3. The Respondent's operation of the Facility was and continues to be suitable for the area in which it is located.
4. It was both technically practicable and economically reasonable for the Respondent to have obtained a permit prior to constructing the new chrome plating tanks and having reconfigured air pollution control equipment at the Facility, to have notified the Illinois EPA that it was constructing new tanks in advance of actually having done so and to have kept the necessary records and to have conducted performance testing for its new tank and air

pollution control equipment configuration. Compliance with the terms of the necessary construction and operating permits would also have been technically practicable and economically reasonable.

5. Respondent has implemented measures to ensure compliance with the Act, the Board Air Pollution Regulations, and the Chrome NESHAP, in resolution of the violations that are the subject of the Complaint and is currently operating its Facility as a source subject to Illinois EPA's Registration of Smaller Sources ("ROSS") program requirements.

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. Illinois EPA alleges that Respondent failed to obtain a permit for construction of new emissions sources and reconfigured air pollution control equipment prior to constructing and then operating the new emissions sources at the Facility, failed to collect and keep the proper records, failed to notify the Illinois EPA in advance of making the modifications to one tank and air pollution control equipment described herein, failed to conduct a stack test of its newly-configured tank and air pollution control equipment, and failed to have an appropriate operating permit for the Facility until June 29, 2009, when Illinois EPA issued Respondent a Lifetime Operating Permit for the Facility. In so doing, Respondent impeded the Illinois EPA's ability to administer the State of Illinois's air permitting program. The violations alleged in the complaint began on or before the Illinois EPA's September 23, 2007 inspection of Respondent's Facility and continued until Illinois EPA's June 29, 2009 issuance of its Lifetime Operating Permit.

2. Respondent was diligent in attempting to achieve compliance with the Act, the Board's Air Pollution Regulations and the Chrome NESHP, once the Illinois EPA notified it of its alleged noncompliance.

3. Respondent received a modest economic benefit from its alleged failure to obtain construction and operating permit's prior to converting the cleaning tank to a plating tank, as

well as its alleged failure to conduct the necessary stack test for its reconfigured operations, as well as from its failure to keep and maintain the requisite records.

4. Complainant has determined, based upon the specific facts of this matter that a penalty of Forty-Five Thousand Dollars (\$ 45,000.00) will serve to deter further violations and aid in future voluntary compliance with the Act, the Board Regulations, and the Chrome NESHAP.

5. Respondent's Facility was the subject of a prior action filed on December 31, 2003, in the Circuit Court for the Seventeenth Judicial Circuit, Boone County, Illinois, entitled *People of the State of Illinois v. U.S. Chrome Corporation of Illinois*, No. 03 CH 216, involving a violation of the Act, the Board Regulations and the USEPA's Hard Chrome Plating NESHAP. This prior action was resolved on January 14, 2005, with the entry of a consent order by the Court. Respondent subsequently came into compliance with the requirements of the Act, the Board Air Pollution Regulations and the Chrome NESHAP. Respondent's operations at the Facility are currently subject to decreased regulatory permitting requirements as the result of having entered into the ROSS Program.

6. Self-disclosure is not at issue in this matter

7. Respondent is not undertaking a supplemental environmental project as part of the settlement of this matter.

8. A Compliance Commitment Agreement was not issued by Illinois EPA in this matter.

V. TERMS OF SETTLEMENT

A. Penalty Payment

The Respondent shall pay a civil penalty in the sum of Forty-Five Thousand Dollars (\$45,000.00) within thirty (30) days from the date the Board adopts accepts this Stipulation.

B. Stipulated Penalties, Interest, and Default

1. If the Respondent fails to complete any activity or fails to comply with any response or reporting requirement by the date specified in this Stipulation, the Respondent shall provide notice to the Complainant of each failure to comply with this Stipulation and shall pay stipulated penalties in the amount of \$150.00 per day until such time that compliance is achieved. The Complainant may make a demand for stipulated penalties upon the Respondent for its noncompliance with this Stipulation. However, failure by the Complainant to make this demand shall not relieve the Respondent of the obligation to pay stipulated penalties. All stipulated penalties shall be payable within thirty (30) calendar days of the date the Respondent knows or should have known of its noncompliance with any provision of this Stipulation.

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

3. Pursuant to Section 42(g) of the Act, interest shall accrue as provided for under Section 1003 of the Illinois Income Tax Act, 35 ILCS 5/1000 *et seq.* (2014), on any penalty amount owed by the Respondent not paid within the time prescribed herein. Interest on unpaid penalties shall begin to accrue from the date such are due and continue to accrue to the date full

payment is received. Where partial payment is made on any penalty amount that is due, such partial payment shall be first applied to any interest on unpaid penalties then owing.

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

C. Payment Procedures

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:

Evan J. McGinley
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602

D. Future Compliance

1. In addition to any other authorities, the Illinois EPA, its 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 may take photographs, samples, and collect information, as they deem necessary.

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, the Board Air Pollution Regulations and the Chrome NESHAP.

3. The Respondent shall cease and desist from future violations of the Act, the Board Air Pollution Regulations and the Chrome NESHAP that were the subject matter of the Complaint.

E. Release from Liability

In consideration of the Respondent's payment of the \$45,000.00 penalty, its commitment to cease and desist as contained in Section V.D.3 above, and its 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, the Board Air Pollution Regulations, and the Chrome NESHAP that were the subject matter of the Complaint herein. The release set forth above does not extend to any matters other than those expressly alleged in Complainant's Complaint filed on December 1, 2010. 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

Evan J. McGinley
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602

Eric Jones
Acting Manager
Bureau of Air, Compliance Unit
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

As to the Respondent

Henry J. Handzel, Jr.
DeWitt, Ross & Stevens
Two East Mifflin Street
Suite 600
Madison, Wisconsin 53072

John Leahy
U.S. Chrome Corporation
305 Herbert Road
Herbert, Illinois 60145
(facility contact)

G. Enforcement and Modification of Stipulation

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

2. The Parties to the Stipulation may, by mutual written consent, agree to extend any compliance dates or modify the terms of this Stipulation. Respondent may request that Complainant grant it an extension of any compliance date for good cause and the Complainant will not unreasonably deny such a request. A request for any modification shall be made in writing and submitted to the contact persons identified in Section V.F. Any such request shall be made by separate document, and shall not be submitted within any other report or submittal required by this Stipulation. Any such agreed modification shall be in writing, signed by authorized representatives of the Parties to the Stipulation.

H. Execution of Stipulation

The undersigned representatives for the Parties to the Stipulation certify that they are fully authorized by the party whom they represent to enter into the terms and conditions of this Stipulation and to legally bind them to it.

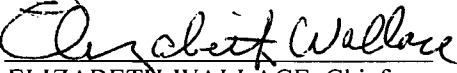
WHEREFORE, the Parties to the Stipulation request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

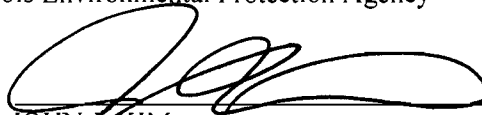
PEOPLE OF THE STATE OF ILLINOIS
LISA MADIGAN
Attorney General
State of Illinois

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

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

LISA BONNETT, Director
Illinois Environmental Protection Agency

BY: 
ELIZABETH WALLACE, Chief
Assistant Attorney General
Environmental Bureau

BY: 
JOHN C. KIM
Chief Legal Counsel

DATE: 10/6/15

DATE: 9/30/15

RESPONDENT
U.S. CHROME OF ILLINOIS, INC.

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.

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

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

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

LISA BONNETT, Director
Illinois Environmental Protection Agency

BY: _____
ELIZABETH WALLACE, Chief
Assistant Attorney General
Environmental Bureau

BY: _____
JOHN J. KIM
Chief Legal Counsel

DATE: _____

DATE: _____

RESPONDENT
U.S. CHROME OF ILLINOIS, INC.

By:  _____

Its: Secretary _____

DATE: 09/24/2015 _____