

**RECEIVED**  
CLERK'S OFFICE

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

AUG 04 2006

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
vs. )  
)  
The CITY OF HARVEY, )  
a municipal corporation in the )  
State of Illinois, )  
)  
Respondent. )

STATE OF ILLINOIS  
Pollution Control Board

No. PCB 07- ~~11-508~~ 1508  
(Enforcement - Land)

VIA ELECTRONIC FILING

**NOTICE OF FILING**

TO: Frederick Mueller, Esq.  
Johnson & Bell  
33 West Monroe Street  
Chicago, IL 60603

Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
Suite 11-500  
James R. Thompson Center  
100 W. Randolph Street  
Chicago, IL 60601

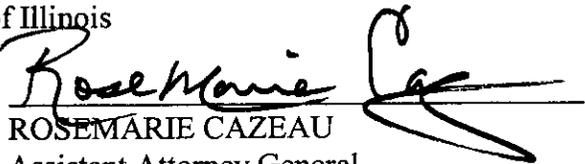
PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the following Complaint, an Agreed Motion for Relief from the Hearing Requirement, and Stipulation and Proposal for Settlement, copies of which are attached and hereby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

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN  
Attorney General  
State of Illinois

BY:



ROSEMARIE CAZEAU  
Assistant Attorney General  
Environmental Bureau  
188 W. Randolph St., 20th Fl.  
Chicago, IL 60601  
(312) 814-3816

DATE: August 4, 2006

**THIS FILING IS SUBMITTED ON RECYCLED PAPER**

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**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD** AUG 04 2006

STATE OF ILLINOIS  
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS, )  
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Complainant, )  
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vs. )  
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The CITY OF HARVEY, )  
a municipal corporation in the )  
State of Illinois, )  
)  
Respondent. )

No. PCB 07- 008  
(Enforcement - Land)

**COMPLAINT**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, complains of Respondent, the CITY OF HARVEY, an Illinois municipality as follows:

**COUNT I**

**OPEN DUMPING**

1. This Count is brought on behalf of the People of the State of Illinois, and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), pursuant to the terms and conditions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2004).
2. The Illinois EPA is an administrative agency of the State of Illinois created by the

Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2004), and charged, *inter alia*, with the duty of enforcing the Act and regulations promulgated by the Illinois Pollution Control Board (“Board”).

3. At all times relevant to this Complaint, the Respondent, City of Harvey (“Harvey”), was and is an Illinois municipality in Cook County duly organized and existing under the Illinois Municipal Code, 65 ILCS 5/1-1, *et seq.* (2004). The address for Harvey’s City Hall is 15320 Broadway Avenue, Harvey, Cook County, Illinois.

4. At all times relevant to this Complaint, the City of Harvey owned and controlled an undeveloped parcel situated within the right-of-way of Myrtle Street, south of 148<sup>th</sup> Street and north of the B & O Railroad property in Harvey, Cook County, Illinois (“Site”). As owner of the Site, Respondent regulates all activities along the right-of-way and has the authority to prevent illegal dumping activity.

5. On August 11, 2004, an inspector from the Illinois EPA inspected the Site. At the time of the inspection, the inspector observed a large volume of debris, including automobile body parts, scrap wood and general refuse dumped at the Site. The debris was located along the shoulder of Myrtle Street and extended several feet from the street. The variety, amount and condition of the debris indicated the debris was generated from different sources over time.

6. On September 28, 2004, Illinois EPA sent a Violation Notice (“VN”) to the City of Harvey advising Respondent that the accumulation of waste at the Site constituted violations of the Act. Harvey did not submit a response to the Illinois EPA within 45 days of receipt of the VN.

7. On February 8, 2005, an Illinois EPA inspection revealed that Harvey still had

not removed the debris as described in paragraph 5 from the Site per the Agency's request.

8. On April 26, 2005, the Illinois EPA again inspected the Site. The inspection revealed that the debris as described in paragraph 5 still had not been removed per the Agency's request. Respondent Harvey had taken no steps to discourage or prevent third parties from dumping waste on the Site; there was no fence, no signs prohibiting dumping and no visible progress toward cleaning up the debris.

9. On June 1, 2005, Illinois EPA sent a Notice of Intent to Pursue Legal Action ("NIPLA") to City of Harvey. Harvey did not respond to the NIPLA.

10. From a date prior to August 11, 2004, and continuing until at least April 26, 2005, on dates better known to Respondent, debris, including automobile body parts, scrap wood and general refuse, was dumped and discarded at the Site.

11. On October 4, 2005, the Illinois EPA inspector visited the Site and observed that the debris described in paragraph 5 had been removed.

12. Section 21(a) of the Act, 415 ILCS 5/21(a) (2004), provides, in pertinent part, as follows:

No person shall:

(a) Cause or allow the open dumping of any waste.

\* \* \*

13. Section 3.315 of the Act, 415 ILCS 5/3.315 (2004), contains the following definition:

"PERSON" is 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. The City of Harvey is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2004).

15. Section 3.535 of the Act, 415 ILCS 5/3.535 (2004), contains the following definition:

“WASTE” means any garbage, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities...

16. Section 3.385 of the Act, 415 ILCS 5/3.385 (2004), provides as follows:

“REFUSE” means waste.

17. The automobile body parts, scrap wood and general refuse discarded at the Site is “waste” as that term is defined by Section 3.535 of the Act, and therefore also “refuse” as defined by Section 3.385 of the Act, 415 5/3.535 and 3.385 (2004).

18. Section 3.185 of the Act, 415 ILCS 5/3.185 (2004), provides as follows:

“DISPOSAL” means the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste or hazardous waste into or on any land or water or into any well so that such waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

19. Section 3.460, of the Act, 415 ILCS 5/3.460 (2004), provides as follows:

“SITE” means any location, place, tract of land, facilities, including but not limited to buildings, and improvements used for purposes subject to regulation or control by this Act or regulations thereunder.

20. Harvey caused or allowed waste to be deposited on the Site in a manner that

exposed the waste to air and to the environment. The Site is therefore a “disposal site” as those terms are defined in the Act.

21. Section 3.305 of the Act, 415 ILCS 5/3.305 (2004), contains the following definition:

“OPEN DUMPING” means the consolidation of refuse from one or more sources at a disposal site that does not fulfill the requirements of a sanitary landfill.

22. Section 3.445 of the Act, 415 ILCS 5/3.445 (2004), provides as follows:

“SANITARY LANDFILL” means a facility permitted by the Agency for the disposal of waste on land meeting the requirements of the Resource Conservation and Recovery Act, P.L. 94-580, ...

23. At all times relevant to this Complaint, the Site was not permitted by the Illinois EPA for the disposal of waste, and thus did not fulfill the requirements of a sanitary landfill as defined in the Act.

24. By allowing third parties to discard of waste at the Site from at least August 11, 2004, until at least September 19, 2005, Harvey caused or allowed the open dumping of waste in violation of Section 21(a) of the Act, 415 ILCS 5/21(a) (2004).

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent, CITY OF HARVEY, on this Count I:

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

2. Finding that Respondent violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2004);

3. Ordering the Respondent to cease and desist from any future violations of Section 21(a) of the Act and pertinent regulations;

4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against the Respondent for each violation of the Act, and an additional civil penalty of Ten Thousand Dollars (\$10,000) for each day of violation;

5. Ordering Respondent to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2004), 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

### CAUSING OR ALLOWING LITTER

1-24. Complainant realleges and incorporates by reference herein paragraphs 1 through 23 of Count I as paragraphs 1 through 23 of this Count II.

25. Section 21(p) of the Act, 415 ILCS 5/21(p) (2004), provides, in pertinent part, as follows:

No person shall:

(p) In violation of subdivision (a) of this Section, cause or allow the open dumping of any waste in a manner which results in any of the following occurrences at the dump site:

(1) litter;

\* \* \*

26. Respondent, by its actions as alleged herein, has caused or allowed the open

dumping of waste, resulting in litter at the Site, and has thereby violated Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2004).

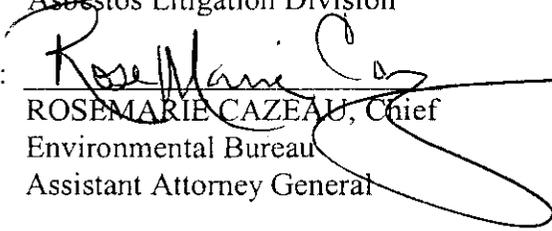
WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent, CITY OF HARVEY, on this Count II:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated Section 21(p)(1) of the Act;
3. Ordering the Respondent to cease and desist from future violations of Section 21(p)(1) of the Act;
4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000) against the Respondent for each violation of the Act, and an additional civil penalty of Ten Thousand Dollars (\$10,000) for each day of violation;
5. Ordering the Respondent to pay all costs, pursuant to Section 42(f) of the Act, 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,  
*ex rel.* LISA MADIGAN,  
Attorney General of the State  
of Illinois

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

BY:

  
ROSEMARIE CAZEAU, Chief  
Environmental Bureau  
Assistant Attorney General

Of Counsel:

Vanessa A. Vail  
Assistant Attorney General  
Environmental Bureau  
188 W. Randolph Street, 20th Floor  
Chicago, IL 60601  
(312) 814-5361

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

AUG 04 2006

STATE OF ILLINOIS  
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS, )  
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 Complainant, )  
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 vs. )  
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 The CITY OF HARVEY, )  
 a municipal corporation in the )  
 State of Illinois, )  
 )  
 Respondent. )

No. PCB 07- *008*  
 (Enforcement - Land)

**AGREED MOTION TO REQUEST RELIEF**  
**FROM THE HEARING REQUIREMENT**

In support of this Motion, the parties state as follows:

1. Today, the People of the State of Illinois, filed a Stipulation and Proposal for Settlement, with the Illinois Pollution Control Board.
2. Section 31(c)(2) of the Illinois Environmental Protection Act, ("Act"), 415 ILCS 5/31(c)(2)(2004) 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). . . .
3. Complainant and Respondent agree that a formal hearing is not necessary to conclude this matter and wish to avail themselves of Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2)(2004).

WHEREFORE, Complainant and Respondent request relief from the hearing requirement pursuant to Section 31(c)(2) of the Act.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN  
Attorney General  
State of Illinois

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

BY:



ROSEMARIE CAZEAU, Chief  
Environmental Bureau  
Assistant Attorney General  
188 West Randolph Street, 20th Fl.  
Chicago, Illinois 60601  
(312) 814-3094

DATE: August 4, 2006

AUG 04 2005

STATE OF ILLINOIS  
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS, )  
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 Complainant, )  
 )  
 v. )  
 )  
 The CITY OF HARVEY, )  
 a municipal corporation in the )  
 State of Illinois, )  
 )  
 Respondent. )

PCB No. 07- **508**  
 (Enforcement - Land)

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 the CITY OF HARVEY, an Illinois municipality, ("Respondent"), 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. The parties agree that the statement of facts contained herein represents a fair summary of the evidence and testimony which would be introduced by the parties if a hearing were held. The parties further stipulate that this statement of facts is made and agreed upon for purposes of settlement only and that neither the fact that a party has entered into this Stipulation, nor any of the facts stipulated herein, shall be introduced into evidence in any other proceeding regarding the claims asserted in the Complaint except as

otherwise provided herein. If the Board approves and enters this Stipulation, Respondent agrees to be bound by the Stipulation and Board Order and not to contest their validity in any subsequent proceeding to implement or enforce their terms.

### **I. JURISDICTION**

The Board has jurisdiction of the subject matter herein and of the parties consenting hereto pursuant to the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/1 *et seq.* (2004).

### **II. AUTHORIZATION**

The undersigned representatives for each party 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.

### **III. STATEMENT OF FACTS**

#### **A. Parties**

1. On August 4, 2006, 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 (2004), 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 (2004).

3. At all times relevant to the Complaint, Respondent was and is an Illinois municipality in Cook County duly organized and existing under the Illinois Municipal Code, 65 ILCS 5/1-1, et seq. (2004).

#### **B. Site Description**

1. At all times relevant to the Complaint, Respondent owned an undeveloped parcel situated within the right-of-way of Myrtle Street, south of 148<sup>th</sup> Street and north of the B & O Railroad property in Harvey, Cook County, Illinois ("Site").

2. On August 11, 2004, debris, including automobile body parts, scrap wood and general refuse was stored and/or disposed of on the Site.

3. On February 8, 2005, accumulation of waste remained on the Site.

4. On April 26, 2005, the Site was in the same condition as on February 8, 2005.

5. On or prior to October 4, 2005, on a date better known to Respondent, the waste was removed from the Site by the Respondent.

**C. Allegations of Non-Compliance**

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

Count I: Open dumping of waste, in violation of Sections 21(a) of the Act, 415 ILCS 5/21(a) (2004).

Count II: Open dumping of waste, in violation of Section 21(p) (1) of the Act, 415 ILCS 5/21(p) (1) (2004).

**D. Response to Allegations**

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

**E. Compliance Activities to Date**

Debris, including automobile body parts, scrap wood and general refuse, has been removed from the Site by the Respondent, and Respondent has completed the removal activities.

**IV. APPLICABILITY**

This Stipulation shall apply to and be binding upon the Complainant and the Respondent, and any officer, director, agent, or employee of the Respondent, as well as any successors or assigns of the Respondent. The Respondent shall not raise as a defense to any enforcement action taken pursuant to this

Stipulation the failure of any of its officers, directors, agents, employees or successors or assigns to take such action as shall be required to comply with the provisions of this Stipulation.

No change in ownership, corporate status or operator of the Site shall in any way alter the responsibilities of the Respondent under this Stipulation and Proposal for Settlement. In the event of any conveyance of title, easement or other interest in the Site, the Respondent shall continue to be bound by and remain liable for performance of all obligations under this Stipulation.

#### **V. COMPLIANCE WITH OTHER LAWS AND REGULATIONS**

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, 35 Ill. Adm. Code, Subtitles A through H.

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

Section 33(c) of the Act, 415 ILCS 5/33(c) (2004), 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 state the following:

1. Complainant alleges that the violations threatened human health and the environment by allowing waste to accumulate in an open area.
2. There is no social and economic benefit to allowing dumping of waste onto public property.
3. The Site is public property and is not suitable for dumping waste.
4. It is both technically practicable and economically reasonable to dispose of waste from the Site at regulated disposal facilities.
5. Respondent has subsequently complied with the Act and the Board Regulations.

## VII. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h) (2004), 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; and
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.

In response to these factors, the parties state as follows:

1. Complainant has alleged that the violations continued from at least August 11, 2004 until approximately October 4, 2005.

2. Respondent was not diligent in removing the accumulation of waste once the Illinois EPA notified it of its noncompliance. Respondent was notified of its noncompliance on several occasions, but subsequent inspections of the Site indicated the waste remained. Respondent did not post any signs at the Site prohibiting dumping to prevent reoccurrences of unauthorized disposal of waste.

3. The penalty obtained negates any economic benefit accrued as a result of Respondent's non-compliance.

4. Complainant has determined, based upon the specific facts of this matter, that a penalty of Ten Thousand Dollars (\$10,000.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

5. Respondent has been a party to an enforcement action in the past, and on at least one occasion admitted open dumping municipal and/or landscape waste at another site. On October 7, 1999, Respondent signed a Consent Order in a case involving open dumping. In the Consent Order, Respondent admitted the violations.

6. There was no self-disclosure.

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

#### VIII. TERMS OF SETTLEMENT

##### A. Penalty Payment

1. The Respondent shall pay a civil penalty in the sum of Ten Thousand Dollars (\$10,000.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation. The Respondent stipulates that payment has been tendered to Respondent's attorney of record in this matter in a form acceptable to that attorney. Further, Respondent stipulates that said attorney has been directed to make the penalty payment on behalf of Respondent, within thirty (30) days from the date the Board adopts and accepts this Stipulation, in a manner prescribed below. The penalty described in this Stipulation shall be paid by certified check, money order or electronic funds transfer payable to the Illinois EPA, designated to the Illinois Environmental Protection Trust Fund and submitted to:

Illinois Environmental Protection Agency  
Fiscal Services Section  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276

The name and number of the case and Respondent's Federal Employer Identification Number (FEIN) shall appear on the check. A copy

of the certified check, money order or record of electronic funds transfer and any transmittal letter shall be sent to:

VANESSA VAIL  
Assistant Attorney General  
Environmental Bureau  
188 W. Randolph St., 20<sup>th</sup> Floor  
Chicago, Illinois 60601

MARK GURNIK  
Assistant Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

2. Pursuant to Section 42(g) of the Act, 415 ILCS 5/42(g) (2004), interest shall accrue on any payment not paid within the time period prescribed above at the maximum rate allowable under Section 1003(a) of the Illinois Income Tax Act, 35 ILCS 5/1003 (2004). Interest on any unpaid payment shall begin to accrue from the date the payment is due and continue to accrue until the date payment is received. When partial payment(s) are made, such partial payment shall be first applied to any interest on unpaid payment then due and owing. All interest on payment owed shall be paid by certified check, money order or electronic funds transfer, payable to the Illinois EPA, designated to the Illinois Environmental Protection Trust Fund and delivered to the address and in the manner described above.

3. For purposes of payment and collection, Respondent may be reached at the following address:

Ms. Bettie Lewis  
City of Harvey Corporation Counsel  
15320 Broadway  
Harvey, Illinois 60426

4. In the event of default of this Section VIII.A, the Complainant shall be entitled to all available relief including, but not limited to, reasonable costs of collection and reasonable attorney's fees.

**B. Future Use**

Notwithstanding any other language in this Stipulation to the contrary, and in consideration of the mutual promises and conditions contained in this Stipulation, including the Release from Liability contained in Section VIII.D, below, the Respondent hereby agrees that 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 promulgated thereunder for all violations alleged in the Complaint in this matter, for purposes of Section 39(a) and (i) and/or 42(h) of the Act, 415 ILCS 5/39(a) and(i) and/or 5/42(h) (2004). Further, Respondent agrees to waive any rights to contest, in any subsequent enforcement action or permit proceeding, any allegations that these alleged violations were adjudicated.

**C. Cease and Desist**

The Respondent shall cease and desist from future violations of the Act that were the subject matter of the Complaint as outlined in Section III.C ("Allegations of Non-Compliance") of this Stipulation.

**D. Release and Liability**

In consideration of the Respondent's payment of the \$10,000.00 penalty and any specified costs and accrued interest, its commitment to Cease and Desist as contained in Section VIII.C and upon the Pollution Control Board's acceptance and approval of the terms of the Stipulation and Proposal for Settlement, the Complainant releases, waives and discharges the Respondent from any further liability or penalties for violations of the Act 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 August 4, 2006. 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 or the Illinois EPA 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.

**E. Enforcement of Board Order**

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

2. Respondent agrees that notice of any subsequent proceeding to enforce the Board Order approving and accepting this Stipulation and Proposal for Settlement may be made by mail and waives any requirement of service of process.

3. The parties agree that, if the Board does not approve and accept this Stipulation and Proposal for Settlement, then neither party is bound by the terms herein.

4. It is the intent of the Complainant and Respondent that the provisions of this Stipulation and Proposal for Settlement and any Board Order accepting and approving such shall be severable, and should any provision be declared by a court of competent jurisdiction to be inconsistent with state or federal law, and therefore unenforceable, the remaining clauses shall remain in full force and effect.

**F. Execution of Document**

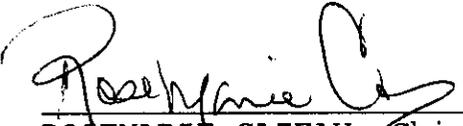
This Stipulation shall become effective only when executed by all parties and the Board. This Stipulation may be executed by the parties in one or more counterparts, all of which taken together, shall constitute one and the same instrument.

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

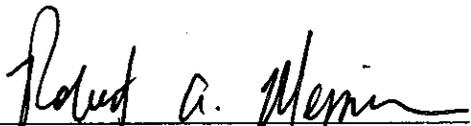
PEOPLE OF THE STATE OF ILLINOIS,

LISA MADIGAN  
Attorney General  
State of Illinois

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

BY:  DATE: 7/31/06  
ROSEMARIE CAZEAU, Chief  
Environmental Bureau  
Assistant Attorney General

ILLINOIS ENVIRONMENTAL PROTECTION  
AGENCY

BY:  DATE: 7/24/06  
ROBERT A. MESSINA  
Chief Legal Counsel

CITY OF HARVEY

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

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

PEOPLE OF THE STATE OF ILLINOIS,

LISA MADIGAN  
Attorney General  
State of Illinois

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

BY: \_\_\_\_\_  
ROSEMARIE CAZEAU, Chief  
Environmental Bureau  
Assistant Attorney General

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

ILLINOIS ENVIRONMENTAL PROTECTION  
AGENCY

BY: \_\_\_\_\_  
ROBERT A. MESSINA  
Chief Legal Counsel

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

CITY OF HARVEY

BY: Mayor Eric J Keller

DATE: Aug 01, 2007

Name: Eric J Keller

Title: Mayor

**CERTIFICATE OF SERVICE**

I, ROSEMARIE CAZEAU, an Assistant Attorney General, do certify that I caused to be served on this 4th day of August 2006, the foregoing Notice of Filing, Complaint, an Agreed Motion for Relief from the Hearing Requirement, and Stipulation and Proposal for Settlement, upon the persons listed on said Notice by placing same in an envelope bearing sufficient postage with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois.

  
ROSEMARIE CAZEAU