

X

STATE OF ILLINOIS )  
                          )    SS  
COUNTY OF COOK    )

RECEIVED

OCT 2 9 1981

BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

POLLUTION CONTROL BOARD

ENVIRONMENTAL PROTECTION AGENCY,) )  
  ) )  
                          Complainant, ) )  
  ) )  
  ) )  
                          v.                                   ) )    PCB 77-25  
  ) )  
MARQUETTE COMPANY,                                    ) )  
  ) )  
  ) )  
                          Respondent.                       ) )

SETTLEMENT AGREEMENT  
AND STIPULATION TO DISMISS

Pursuant to Illinois Pollution Control Board Procedural Rule 331, the following Statement of Facts, Settlement Agreement, and Stipulation to Dismiss, entered into by and between the Complainant, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY ("Agency"), and the Respondent, MARQUETTE COMPANY ("Marquette"), is set out for the purpose of submitting to the POLLUTION CONTROL BOARD ("Board") the proposals hereinafter set forth.

It is hereby stipulated and agreed by and between Marquette and the Agency ("the Parties") to the above-captioned proceeding, by and through their respective attorneys, that the above-captioned proceeding may be compromised and settled on the basis hereinafter set forth.

It is expressly understood and agreed by and between the Agency and Marquette that if the above-captioned proceeding is not disposed of as herein contemplated, the Settlement Agreement, Stipulation to Dismiss, Statement of

*Joint X1*  
*10/26/81*  
*cmc*

Facts, Terms of Settlement, and Exhibits A through E (hereafter collectively referred to as the "Settlement Agreement and Stipulation to Dismiss") herein contained may not be considered to be, nor may they be used as, admissions or any other type of evidence by either Party in further proceedings had by the Agency in any enforcement action or in any other administrative, civil, or criminal proceeding by the Agency, by the Board, or by any other person, corporation, or unit or agency of government, or by any multiple or combination thereof.

Upon approval and acceptance of this Settlement Agreement and Stipulation to Dismiss by the Board, and upon incorporation of the provisions of this Settlement Agreement and Stipulation to Dismiss into an interim Board order, the Parties hereto shall be bound by the provisions of this Settlement Agreement and Stipulation to Dismiss in accordance with the terms hereof. The Parties understand and agree that the interim Board order incorporating the provisions of this Settlement Agreement and Stipulation to Dismiss is and shall be enforceable in the appropriate forum(s).

Within seven (7) days of the issuance by the Agency of an operating permit pursuant to paragraph 20 of this Settlement Agreement and Stipulation to Dismiss, the Agency shall move to dismiss the Complaint, Amended Complaint, and Second Amended Complaint with prejudice for the period of time covered by the Second Amended Complaint to the effective date of the operating permit issued by the Agency pursuant to paragraph 20 of this Settlement Agreement and Stipulation to Dismiss.

References to Exhibits A through E and to the testing program and malfunction, breakdown, and shutdown procedures described in Exhibit A, the Fugitive Emissions Control Program described in Exhibit B, and the operating permit issued by the Agency pursuant to paragraph 20 shall include any amendments which may be made to such exhibits, programs, procedures, and permit by written agreement of the Parties.

The Parties agree upon the following order of events: (1) the Parties shall sign this Settlement Agreement and Stipulation to Dismiss; (2) Marquette and the Agency shall then submit the Settlement Agreement and Stipulation to Dismiss to the Pollution Control Board for approval, acceptance, and incorporation into an interim order; (3) as soon as reasonably possible thereafter the Parties shall come to final agreement upon the details of a testing program and shall begin conducting the testing in accordance with the Parties' agreement and Exhibit A; (4) based upon the testing conducted by Marquette pursuant to Exhibit A, Marquette and the Agency shall agree upon the parameter levels meeting Illinois emission standards and shall insert the appropriate numbers in paragraph 1 of Exhibit A; (5) within forty-five (45) days after the beginning of the stack testing conducted by the Parties pursuant to Exhibit A, Marquette shall submit to the Agency an application for a renewed operating permit for the Oglesby plant; (6) between the date that Marquette submits to the Agency an application for an operating permit and the date that the Agency issues such permit, the Parties shall come to final agreement on the Fugitive Emissions Control Program set forth in Exhibit B and shall submit Exhibit B to the Board as an agreed amendment to this Settlement Agreement and Stipulation to Dismiss; (7) within ninety (90) days

of submission of a timely, complete, and sufficient application for an operating permit, the Agency shall issue an operating permit to Marquette for the Oglesby plant; (8) within seven (7) days of the effective date of the operating permit issued by the Agency pursuant to paragraph 20, the Agency shall move to dismiss the Complaint, Amended Complaint, and Second Amended Complaint in this matter and Marquette shall move to dismiss the case of Marquette Cement Mfg. Co. v. Michael Mauzy, et al., No. 77-MR-8 (Cir. Ct., LaSalle County, Illinois); (9) within thirty-five (35) days of the date on which the Board adopts a final order dismissing this case and incorporating the provisions of this Settlement Agreement and Stipulation to Dismiss, Marquette shall pay the penalty set forth in paragraph 29; and (10) upon issuance of the operating permit for the Oglesby plant pursuant to paragraph 20, Marquette shall undertake the activities set forth in paragraphs 9 through 18.

The Parties understand that they may not be able to agree upon the parameter levels meeting Illinois emission standards (see event (4) in the preceding paragraph) or the details of the Fugitive Emissions Control Program set forth in Exhibit B (see event (6) in the preceding paragraph) and that therefore the Agency would not under the terms of this Settlement Agreement and Stipulation to Dismiss be required to issue an operating permit for the Oglesby plant (see event (7) in the preceding paragraph) or move to dismiss this case (see event (8) of the preceding paragraph), nor would Marquette be required to dismiss Case No. 77-MR-8 (see event (8) in the preceding paragraph) or pay any penalty in resolution of this case (see event (9) in the preceding paragraph). The Agency and Marquette agree that they would then

resume, respectively, prosecution and defense of this case as if this Settlement Agreement and Stipulation to Dismiss had not been signed by the Parties or approved by the Board, provided that such resumption would not preclude the Parties from again trying to resolve this case by settlement should that appear possible. The Parties understand and agree that Marquette shall be required to undertake the testing pursuant to Exhibit A (see events (4) and (5) in the preceding paragraph) only as part of this Settlement Agreement and Stipulation to Dismiss after the Board adopts an interim order approving, accepting, and incorporating the provisions of this Settlement Agreement and Stipulation to Dismiss.

#### STATEMENT OF FACTS

1. At all times pertinent to these proceedings Marquette, a Delaware corporation authorized to do business in the State of Illinois, has owned and operated a portland cement manufacturing facility near the City of Oglesby in LaSalle County, Illinois ("the Oglesby plant").
2. The Oglesby plant is an emission source within the meaning of Rule 101, Chapter 2, Part I, of the Pollution Control Board's Air Pollution Control Regulations and is a Stone, Clay, and Glass Products Industry Operation as defined by Code 32 of the "Standard Industrial Classification Manual." Operation of the Oglesby plant generates particulate matter which is emitted into the atmosphere.
3. A flow diagram of Marquette's portland cement manufacturing process is attached hereto as Exhibit E, hereby incorporated by reference.

Crushed limestone, shale, and coal are fed to kiln No. 3, which is a rotary kiln. Emissions from kiln No. 3 are controlled by multiclones and an electrostatic precipitator.

Marquette's "old plant" consists of kilns Nos. 1 and 2. Since neither is in operation, neither is the subject of this lawsuit.

4. The Complaint in this proceeding was filed January 21, 1977; an Amended Complaint was filed January 26, 1977; and a Second Amended Complaint was filed February 24, 1978. The Second Amended Complaint alleged the following violations of Rules 103(b)(1), 103(b)(2), 105(a), 203(a), 203(f)(2), 301, and 307 of the Board's Air Pollution Control Regulations and of Sections 9(a) and (b) of the Illinois Environmental Protection Act ("Act"):

(a) Operating Permits. Since August 2, 1974 Marquette has not had an operating permit from the Agency for all of the emission sources in existence on August 2, 1974, in violation of Rule 103(b)(2) and Section 9(b) of the Act. Marquette has operated nine new baghouses since September 12, 1975 without an operating permit from the Agency, in violation of Rule 103(b)(1) and Section 9(b) of the Act. Two new baghouses on the permanent storage silos have been operated by Marquette since June 10, 1976 without an operating permit from the Agency, in violation of Rule 103(b)(1) and Section 9(b) of the Act.

(b) Fugitive Particulate Matter Larger than 40 Microns. Since approximately October 27, 1976, the Oglesby plant has emitted fugitive particulate matter in excess of 40 microns in diameter beyond its property line, in violation of Rule 203(f)(2) and Section 9(a) of the Act.

(c) Permanent Storage Silos. From approximately May 2, 1973, to and including June 10, 1976, particulate emissions from the permanent storage silos violated the limitations of Rule 203(a) and Section 9(a) of the Act.

(d) Air Pollution. Since June 1, 1976, Marquette has caused air pollution in Illinois, in violation of Section 9(a) of the Act.

(e) Ambient Air Quality Standards. Since approximately October 1976 and continuing intermittently, particulate emissions from the Oglesby plant violated the limitations of Rules 301 and 307 and Section 9(a) of the Act.

(f) Operation During Malfunction, Breakdown, or Startup. Since August 2, 1974, Marquette has operated during malfunction, breakdown, or startup, in violation of Rule 105(a) and Section 9(a) of the Act.

The Agency contends that it would establish each violation alleged in the Second Amended Complaint by introducing evidence at trial including, but not limited to, citizen and technical testimony, Agency records, and the results of sampling.

Marquette does not agree that the alleged violations would be proved.

5. At a trial in this matter, Marquette would respond to the alleged violations enumerated in paragraph 4 of this proposed Settlement Agreement and Stipulation to Dismiss by introducing evidence which it contends would, among other things, show the following:

(a) Operating Permits. Marquette denies that it has operated without an operating permit from the Agency. Marquette states that on

August 2, 1973 it received a five-year operating permit by default and that on September 12, 1976 it received another five-year operating permit by default. On May 30, 1980, the Illinois Appellate Court for the Third District held that an air operating permit was deemed to have been issued to Marquette as of September 26, 1979.

(b) Fugitive Particulate Matter Larger than 40 Microns. Marquette denies that it has emitted fugitive particulate matter larger than 40 microns beyond its property line.

(c) Permanent Storage Silos. Marquette denies that emissions of particulate matter from the permanent storage silos have exceeded the allowable mass emission limitations of Rule 203 or have violated Section 9(a) of the Act.

(d) Air Pollution. Marquette denies that emissions of particulate matter from the Oglesby plant have caused air pollution within the meaning of Section 9(a) of the Act.

(e) Ambient Air Quality Standards. Marquette admits that particulate matter is necessarily emitted into the atmosphere from the Oglesby plant. Marquette believes that the Agency's monitors are not sited or operated in accordance with United States Environmental Protection Agency guidelines and therefore have not resulted in data representative of ambient air quality in LaSalle County, particularly the Oglesby area.

(f) Operating During Malfunction, Breakdown, or Startup. Marquette admits that it has operated during malfunction, breakdown, or



startup but states that such operation was allowed under its operating permit.

The Agency does not agree that such facts would be proved.

6. At a trial in this matter, Marquette contends it would offer evidence to show the following plant improvements relating to environmental matters:

(a) Late in 1968 Marquette undertook a program costing \$17 million to modernize the Oglesby plant. As part of that program, pollution control equipment costing \$3 million was installed by 1973.

(b) Late in 1974 Marquette began replacing old, inferior pollution control equipment associated with the raw grind mills and storage silos at a capital cost of \$375,000. In 1976 Marquette installed baghouses on the west bank of silos at a capital cost of \$2,000.

(c) From 1974 through 1977 Marquette spent approximately \$1 million modernizing various departments of the Oglesby plant, building new access roads, and paving many internal plant roads. Marquette also purchased a road sweeper at a capital cost of \$15,000 and a yearly operating cost of \$25,000.

7. At a trial in this matter, Marquette contends it would offer evidence to show the following social value and suitability of location of its Oglesby plant:

(a) Marquette's plant is the only remaining employer of significant size in Oglesby, a community of 4,000. The Oglesby plant employs about 200 people and has an annual payroll of about \$3 million. Every

year Marquette purchases over \$500,000 in goods and services in Oglesby and pays over \$265,000 in local taxes. Many of the merchants and small businesses in Oglesby depend on Marquette's employees in order to stay in business. Furthermore, Marquette financed the construction of Dickenson House, the town's community center, comprising an indoor swimming pool, bowling alley, dining facilities, club rooms, and other recreational facilities. Marquette alone provides financial support for the continued operation of Dickenson House.

(b) The area around the Oglesby plant is rural, lacking major industrial development, significant industrial particulate emissions, and large urban population.

(c) LaSalle County is predominantly rural. According to the U.S. Department of Commerce Census Bureau, the total population of LaSalle County in 1977 was estimated to be 108,849, about 44,000 people living in "urban" areas and only about 4,000 living in Oglesby itself. Sources characteristic of rural areas—dirt roads, land tilling, and wind erosion—contribute over 86 percent of total source TSP emissions, most of them from dirt roads, which alone account for 70 percent of area source emissions of particulate matter. Illinois State Implementation Plan for Air Pollution Control ("SIP"), Volume 2: Particulates, Draft, April 1979, Illinois Environmental Protection Agency, Table 69, p. 7-158. Marquette's Oglesby plant emits about one-fifth of the particulate matter allowed under the Board's Air Pollution Control Regulations, amounting to about 0.7 percent of all the particulate matter emitted by sources in LaSalle County. Ill. SIP, Tables 69 and 70, pp. 7-158-7-160.

## TERMS OF SETTLEMENT

8. This proposed Settlement Agreement and Stipulation to Dismiss, which hereby incorporates by reference Exhibits A, C, D, and E, (and Exhibit B when submitted to the Board), as they may be amended from time to time by written agreement of the Parties, is expressly conditioned and effective only upon unconditional approval and acceptance of the Board and upon incorporation of the provisions of this Settlement Agreement and Stipulation to Dismiss into interim and final Board orders (see events (2) and (9) on pages 3 and 4 of this Settlement Agreement and Stipulation to Dismiss. All Statements of Fact and Terms of Settlement shall be null and void and of no effect and shall not be used for any other purpose if the Board fails to approve and accept unconditionally the following Terms of Settlement and to incorporate such Terms of Settlement into interim and final Board orders:

9. Marquette agrees to install and operate the following equipment for measuring the operating parameters of the kiln electrostatic precipitator ("ESP") and multiclones and for analyzing the effect of those parameters on particulate emissions during various stages of plant operation:

(a) in the ESP equipment room, equipment to measure and record gas flow in the kiln stack;

(b) in the ESP equipment room, equipment to measure and record (on second pen of the kiln stack recorder) multiclone differential pressure;

(c) in the ESP equipment room, a 4-channel event-recorder to determine when four separate fields are on or off; and

(d) at the ESP control panel, four 2-channel recorders for recording field kilovolts.

10. Marquette agrees to have the equipment described in paragraph 9 calibrated as required by operating instructions or good practice and to record all calibrations and other adjustments, to retain such records for the term of the renewal permit issued pursuant to paragraph 20, and for that term to make all such records available to the Agency for inspection and copying upon reasonable request.

11. For the term of the renewal permit issued pursuant to paragraph 20, Marquette agrees to operate the Oglesby plant in accordance with the malfunction, breakdown, and shutdown procedures developed as a result of stack tests conducted by the Parties pursuant to Exhibit A.

12. The malfunction, breakdown, and shutdown procedures set forth in Exhibit A shall only be in effect and enforceable during the term of the renewal permit issued pursuant to paragraph 20 of the Settlement Agreement and Stipulation to Dismiss but for that term shall be enforceable both as permit conditions and as provisions of interim and final Board orders approving, accepting, and incorporating the provisions of the Settlement Agreement and Stipulation to Dismiss.

13. Marquette shall respond as set forth in Exhibit C to complaints of air pollution received by the Oglesby Plant and shall make its investigation reports available to the Agency for inspection and copying upon reasonable request.

14. Marquette shall submit to the Agency monthly air pollution incident reports using the form attached as Exhibit D.

15. Reports required to be submitted by Marquette under the terms of this Settlement Agreement and Stipulation to Dismiss shall be mailed to the Agency at the following address:

Illinois Environmental Protection Agency  
Control Program Coordinator  
2200 Churchill Road  
Springfield, Illinois 62706

16. Without admitting that industrial fugitive emissions from the Oglesby plant cause or contribute to ambient air quality violations in the Oglesby area, but in order to help improve ambient air quality, reduce industrial fugitive emissions, and comply with Air Pollution Control Regulation 203(f), Marquette agrees to institute a program to control fugitive emissions ("Fugitive Emissions Control Program") at the Oglesby plant. The details of the Fugitive Emissions Control Program shall be agreed upon by the Parties between the date that Marquette submits its application for a renewal permit to the Agency and the date on which the Agency issues the renewal permit. The Fugitive Emissions Control Program shall be submitted to the Board as Exhibit B to be added to the Settlement Agreement and Stipulation to Dismiss as an agreed amendment.

17. The Parties agree that the Fugitive Emissions Control Program shall not be disapproved by the Agency solely because it incorporates "equivalent methods," as that term is used in Rule 203(f) of the Board's Air Pollution Control Regulations, Chapter 2, dated January 1, 1980, provided that the

Agency agrees the methods proposed by Marquette are "equivalent methods" for purposes of Rule 203 (f) of the Board's Air Pollution Control Regulations, Chapter 2, dated January 1, 1980. The Fugitive Emissions Control Program shall be implemented in stages beginning on the date that the Agency issues a renewal permit for the Oglesby plant pursuant to paragraph 20 and shall be completed by December 31, 1982.

18. Marquette shall submit to the Agency at the address appearing in paragraph 15 a final report on the Fugitive Emissions Control Program on or before January 31, 1983. The Parties agree that if the Agency thereafter deems Marquette to be in violation of the Fugitive Emissions Control Program, it shall give Marquette written notice of the alleged violation(s) and a minimum period of thirty (30) days thereafter in which to come into compliance with the Fugitive Emissions Control Program before instituting other administrative or judicial action in connection with such alleged violation(s).

19. The Agency agrees that, in acknowledgement of the Fugitive Emissions Control Program undertaken by Marquette, it shall not refuse to issue an operating permit for the Lehigh Quarry on the basis of ambient air quality violations recorded between the date on which the Parties sign this Settlement Agreement and Stipulation to dismiss and the expiration date of the renewal permit issued pursuant to paragraph 20 so long as on the date of application Marquette is in compliance with the Fugitive Emissions Control Program.

20. Upon conclusion of the testing described in Exhibit A of this Settlement Agreement and Stipulation to Dismiss, and upon timely submission by Marquette of a complete and sufficient application for an operating permit, the Agency shall issue to Marquette a renewed operating permit (variously referred to in this Settlement Agreement and Stipulation to Dismiss as "renewal permit" or "operating permit") for the Oglesby plant no more than 90 days after submission of the application. Marquette's application for an operating permit shall be deemed timely if it is submitted within forty-five (45) days after the beginning of the stack testing pursuant to Exhibit A or within such other time as the Parties may agree upon in writing. The renewal permit shall contain only standard conditions and special conditions not in conflict with the requirements of this Settlement Agreement and Stipulation to Dismiss. The term of the renewal permit shall be a minimum of one year from the effective date. The Parties agree that the operating permit which on May 30, 1980 the Illinois Appellate Court for the Third District deemed to be issued to Marquette by operation of law as of September 26, 1979 shall be deemed to end on the effective date of the renewal permit issued by the Agency for the Oglesby plant pursuant to this paragraph.

21. The Agency agrees that, in acknowledgement of the Fugitive Emissions Control Program undertaken by Marquette, it shall not, following expiration of the renewal permit issued pursuant to paragraph 20, refuse to reissue an air operating permit for the Oglesby plant on the basis of ambient air quality violations recorded between the date on which the Parties sign this Settlement Agreement and Stipulation to Dismiss and the expiration date of

the renewal permit issued to pursuant to paragraph 20 so long as on the date of reapplication Marquette is in compliance with the Fugitive Emissions Control Program.

22. Except as otherwise required by applicable law or regulation, the activities that Marquette agrees to undertake pursuant to paragraphs 9 through 18 shall be undertaken only for the period beginning on the date that the Agency, pursuant to paragraph 20, issues Marquette a renewal permit for its Oglesby plant and ending on the date of expiration of the renewal permit, except that (a) the testing undertaken by Marquette pursuant to Exhibit A shall begin as soon as reasonably possible after the Board adopts an interim order accepting, approving, and incorporating the provisions of this Settlement Agreement and Stipulation to Dismiss and the Parties have come to final agreement upon the details of a testing program and (b) the Fugitive Emissions Control Program set forth in Exhibit B shall continue until December 31, 1982. The activities that Marquette agrees to undertake pursuant to paragraphs 9 through 18 shall be subject to the terms and conditions set forth in paragraphs 23 through 29, as follows:

23. Within seven (7) days of the effective date of the operating permit issued by the Agency pursuant to paragraph 20, the Agency shall move to dismiss the Complaint, Amended Complaint, and Second Amended Complaint in this proceeding with prejudice for the period of time covered by the Second Amended Complaint to and including the effective date of the operating permit issued by the Agency pursuant to paragraph 20.



24. In consideration of the activities undertaken by Marquette pursuant to paragraphs 9 through 18 and the penalty paid pursuant to paragraph 29, the Agency releases Marquette and its officers, agents, and assigns from any and all liability to the State of Illinois arising from or in relation to the emissions alleged in the Complaint, Amended Complaint, and Second Amended Complaint in this proceeding up to and including the effective date of the operating permit issued by the Agency pursuant to paragraph 20.

25. If operation of the Oglesby plant terminates as a result of the application of federal, state, or local law, regulation, or ordinance or the issuance of an administrative order or court order or decree, or if the operation of the Oglesby plant terminates for any other reason, all obligations of Marquette pursuant to this Settlement Agreement and Stipulation to Dismiss shall cease unless otherwise required by law or regulation. If operation of the Oglesby plant is thereafter resumed, Marquette's obligations shall be reinstated as if operation had not ceased consistent with applicable State and federal law.

26. For the term of this Settlement Agreement and Stipulation to Dismiss, including the term of the renewal permit issued pursuant to paragraph 20, and additionally so long as Marquette is in compliance with paragraphs 9 through 18, the Agency shall not cause any other enforcement action based upon allegations in the Second Amended Complaint to be brought or initiated against Marquette or its officers and employees pursuant to the Act or the Board's regulations for emission of particulate matter from the Oglesby plant.

27. It is agreed that within seven (7) days of the effective date of the operating permit issued by the Agency pursuant to paragraph 20 of this

Settlement Agreement and Stipulation to Dismiss, Marquette shall move to dismiss the case of Marquette Cement Manufacturing Company v. Michael Mauzy, et al., No. 77-MR-8 (Circuit Court, LaSalle County, Illinois).

28. Force Majeure.

(a) If any event occurs which delays or may delay Marquette's compliance with the terms of this Settlement Agreement and Stipulation to Dismiss, Marquette shall notify the Agency and the Pollution Control Board in writing within twenty-one (21) days of the delay or anticipated delay, as appropriate, describing in detail the expected length of the delay, the specific cause or causes of the delay, the measures taken and to be taken by Marquette to prevent or minimize the delay, and the timetable by which those measures will be implemented. Marquette shall adopt all reasonable measures to avoid or minimize any such delay.

(b) If the Parties agree that the delay or expected delay in compliance with the Settlement Agreement and Stipulation to Dismiss has been or will be caused by circumstances beyond the control of Marquette, the time for compliance with this Settlement Agreement and Stipulation to Dismiss may be extended for a period negotiated by the Parties. In such event, the Parties shall stipulate to such extension of time and so inform the Board. In the event the Parties cannot agree on an extension of time, either Party may submit the matter to the Board for resolution.

(c) The burden of proving that any delay is caused by circumstances beyond the control of Marquette shall rest with Marquette. Increased costs or expenses associated with the activities called for by this Settlement

Agreement and Stipulation to dismiss shall not, in any event, be a basis for changing this Settlement Agreement and Stipulation to Dismiss or extending time under subsection (b). Delay in achievement of one interim step shall not necessarily justify or excuse delay in achievement of subsequent steps.

29. The Parties enter into this Settlement Agreement and Stipulation to Dismiss and Marquette agrees to pay the penalty specified in this paragraph in order to avoid the substantial costs, inconveniences, and uncertainties of further litigation. In order to resolve this dispute and as a condition of settlement, but without admitting that any penalty is appropriate, that it has violated applicable provisions of the Illinois Environmental Protection Act or the Board's Air Pollution Control Regulations, or that it has committed any common law nuisance, Marquette agrees to pay a penalty to the State of Illinois of \$15,000.00 (Fifteen Thousand Dollars) within thirty-five (35) days of the date on which the Board adopts a final order dismissing the Complaint, Amended Complaint, and Second Amended Complaint with prejudice.

IN WITNESS WHEREOF, the Parties have caused this Settlement Agreement and Stipulation to Dismiss to be proposed to the Pollution Control Board.

MARQUETTE COMPANY

By: *C. L. Hewitt*

Title: Executive Vice President  
Operations & Engineering

Date: 11/26/80

ILLINOIS ENVIRONMENTAL PROTECTION  
AGENCY

By: *Joseph E. DeBoda*

Title: Manager, Enforcement Programs

Date: 12/5/80