

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB NO. 16-
)	(Enforcement - Water)
THE ARNOLD ENGINEERING CO.,)	
an Illinois corporation,)	
)	
Respondent.)	

COMPLAINT

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, and complains of Respondent, THE ARNOLD ENGINEERING CO., an Illinois corporation, as follows:

COUNT I

WATER POLLUTION

1. This Complaint is brought on behalf of the People of the State of Illinois, *ex rel.* Lisa Madigan, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2014), against The Arnold Engineering Co. ("Respondent").

2. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2014), and charged, *inter alia*, with the duty of enforcing the Act.

3. At all times relevant to this Complaint, Respondent was and is an Illinois corporation in good standing. Between at least 1970 and the present, and on such dates better

known to Respondent, Respondent has operated and continues to operate a magnetic alloys production facility at the property located at 300 North West Street, Marengo, McHenry County, Illinois (the "Site"). Since January 1, 2013, and on such dates better known to Respondent, Respondent conducted its manufacturing operations in the following buildings at the Site:

- a. Building 5: Arnold Engineering currently utilizes and historically utilized this building for the manufacture of magnetic components.
- b. Building 11/14: Arnold Engineering currently conducts, and historically conducted, rolling mill and finishing operations to produce thin-gauge rolled steel products in the building.

4. On January 12, 2011, the Illinois EPA issued a Water Pollution Control Permit numbered 2011-EO-1001 to the Respondent with respect to the Site ("Permit No. 011-EO-1001"), pursuant to which Respondent has been and is authorized to discharge process wastewater generated at the Site into an on-Site 4-pond treatment system, which is either recycled back into plant operations or discharged to an on-Site percolation field.

5. On June 23, 1999, the Illinois EPA issued General National Pollutant Discharge Elimination System ("NPDES") Permit for Industrial Sites numbered ILR001065 ("NPDES Permit ILR001065") to the Respondent, pursuant to which Respondent is authorized to discharge clean storm water from the Site.

6. On May 1, 2014, the Illinois EPA conducted a compliance inspection at the Site.

7. On May 1, 2014, and such dates better known to Respondent, a sump collection pit was located at the Site, which collects process wastewater (including non-contact cooling water for furnaces, water used for rinsing of parts and water used for wet grinding) and storm water from the Site. The sump collection pit is separated by a concrete containment wall from an unnamed drainage ditch on the northern portion of the Site that is used as a 100-year rainfall event emergency overflow point.

8. On May 1, 2014, and such other dates better known to Respondent, a breach in the concrete containment wall existed, through which collected process wastewater and storm water discharged into an unnamed drainage ditch at the Site which is in the watershed of the Kishwaukee River. The unnamed drainage ditch at the Site was not lined, and as a result, the collected process wastewater and storm water may have impacted the groundwater at the Site.

9. Section 12(a) of the Act, 415 ILCS 5/12(a) (2014), provides as follows:

No person shall:

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

10. Section 3.315 of the Act, 415 ILCS 5/3.315 (2014), provides as follows:

“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.

11. Respondent is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2014).

12. Section 3.165 of the Act, 415 ILCS 5/3.165 (2014), provides the following definition:

“Contaminant” is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

13. Process wastewater and storm water that discharged from the sump collection pit at the Site are “contaminants” as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2014).

14. Section 3.545 of the Act, 415 ILCS 5/3.545 (2014), 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 to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

15. Section 3.550 of the Act, 415 ILCS 5/3.550 (2014), provides the following definition:

“Waters” means all accumulations of water, surface and underground, natural, and artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon this State.

16. The groundwater beneath the unnamed drainage ditch and Kishwaukee River constitute “waters” as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2014).

17. Respondent’s failure to maintain the concrete containment wall at the Site to restrict process wastewater and storm water from discharging into the unnamed drainage ditch and potentially the groundwater at the Site and Kishwaukee River constitutes a discharge of contaminants into the waters of the State that tends to cause a nuisance because such discharges may be harmful or detrimental or injurious to public health, safety or welfare, thereby constituting water pollution, as that term is defined in Section 3.545 of the Act, 415 ILCS 5/3.545 (2014).

18. By threatening, causing or allowing the discharge of process wastewater and storm water into the unnamed drainage ditch at the Site, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2014).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent, THE

ARNOLD ENGINEERING CO., with respect to 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 has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2014);
3. Ordering Respondent to cease and desist from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2014);
4. Assessing against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, with an additional penalty of Ten Thousand Dollars (\$10,000.00) 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) (2014), including attorney, expert witness, and consultant fees expended by the Complainant in its pursuit of this action; and
6. Granting such other relief as the Board deems appropriate and just.

COUNT II

VIOLATION OF PERMIT NO. 011-EO-1001

1. This Count is brought on behalf of the People of the State of Illinois, *ex rel.* Lisa Madigan, Attorney General of the State of Illinois, on her own motion, pursuant to the terms and provisions of Section 31 of the Act, 415 ILCS 5/31 (2014), against Respondent.

2-15. Complainant realleges and incorporates by reference herein paragraphs 3 through 8 and 10 through 17 of Count I as paragraphs 2 through 15 of this Count II.

16. Section 12(b) of the Act, 415 ILCS 5/12(b) (2014), provides as follows:

No person shall:

- (b) Construct, install, or operate any equipment, facility, vessel, or aircraft capable of causing or contributing to water pollution, or designed to prevent water 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.

17. Special Condition 2 of Permit No. 2011-EO-1001 provides that, “[t]his permit is issued with the expressed understanding that there shall be no surface discharge from these facilities. If such discharge occurs, additional or alternate facilities shall be provided. The construction of such additional or alternate facilities may not be started until a Permit for the construction is issued by this Agency.”

18. By failing to maintain the concrete containment wall at the Site to restrict process wastewater and storm water from discharging into the drainage ditch, Respondent caused or allowed surface discharges of process wastewater and storm water from the Site, thereby violating Special Condition 2 of Permit No. 2011-EO-1001.

19. By violating Special Condition 2 of Permit No. 2011-EO-1001, Respondent also violated Section 12(b) of the Act, 415 ILCS 5/12(b) (2014).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent, THE ARNOLD ENGINEERING CO., with respect to this Count II:

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

2. Finding that Respondent has violated Section 12(b) of the Act, 415 ILCS 5/12(b) (2014), and Special Condition 2 of Permit No. 2011-EO-1001;

3. Ordering Respondent to cease and desist from any further violations of Section 12(b) of the Act, 415 ILCS 5/12(b) (2014), and Special Condition 2 of Permit No. 2011-EO-

1001;

4. Assessing against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, with an additional penalty of Ten Thousand Dollars (\$10,000.00) 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) (2014), including attorney, expert witness, and consultant fees expended by the Complainant in its pursuit of this action; and

6. Granting such other relief as the Board deems appropriate and just.

COUNT III

VIOLATION OF THE NPDES PERMIT PROGRAM

1-15. Complainant realleges and incorporates by reference herein paragraphs 1 through 8 and 10 through 16 of Count I as paragraphs 1 through 15 of this Count III.

16. Section 12(f) of the Act, 415 ILCS 5/12(f) (2014), 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, 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 term or condition imposed by such permit, 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.

17. Section 309.102(a) of the Board Water Pollution 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.

18. Section 301.240 of the Board Water Pollution Regulations, 35 Ill. Adm. Code

301.240, provides the following definition:

“CWA” means the Federal Water Pollution Control Act, as amended, (33 U.S.C. 1251 et seq., Public Law 92-500 enacted by Congress October 18, 1972 as amended by the “Clean Water Act”, Public Law 95-217, enacted December 12, 1977, as amended.)

19. Section 1362(14) of the CWA, 33 U.S.C.A. §1362(14), provides the following definition:

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. This term does not include agricultural stormwater discharges and return flows from irrigated agriculture.

20. The cracks in the concrete containment wall are discernible, confined and discrete conveyances, thereby constituting “point sources” as that term is defined in Section 1362(14) of the CWA, 33 USCA 1362(14).

21. On May 1, 2014, and such other dates better known to Respondent, Respondent discharged contaminants into an unnamed drainage ditch, that may impact the groundwater at the Site and the Kishwaukee River watershed, from cracks in the concrete containment wall, an unpermitted point source.

22. At no time did Respondent receive a NPDES permit from the Illinois EPA authorizing the discharge of process wastewater and storm water into the unnamed drainage ditch.

23. By causing, threatening or allowing the discharge of contaminants from a point source into a water of the State without a NDPEs permit, Respondent violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2014), and Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent, THE ARNOLD ENGINEERING CO., with respect to this Count III:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2014), and Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a);
3. Ordering Respondent to cease and desist from any further violations of Section 12(f) of the Act, 415 ILCS 5/12(f) (2014), and Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a);
4. Assessing a civil penalty of Ten Thousand Dollars (\$10,000.00) against Respondent for each day during which each violation of the Act and any NPDES program-related regulation of the Board continued;
5. Ordering Respondent to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2014), including attorney, expert witness, and consultant fees expended by the Complainant in its pursuit of this action; and
6. Granting such other relief as the Board deems appropriate and just.

COUNT IV

**FAILURE TO COMPLY WITH STORM WATER POLLUTION PREVENTION PLAN
PERMIT REQUIREMENTS**

1-25. Complainant realleges and incorporates by reference herein paragraphs 1 through 8 and 10 through 17 of Count I and paragraphs 16 through 22 of Count III as paragraphs 1 through 25 of this Count IV.

26. Section E. of NPDES Permit ILR001065 provides, in pertinent part, as follows:

1. A storm water pollution prevention plan shall be developed by the permittee and submitted to the Agency for each facility covered by this permit. The plan shall identify potential sources of pollution which may be expected to affect the quality of storm water discharges associated with the industrial activity at the facility. In addition, the plan shall describe and ensure the implementation of practices which are to be used to reduce the pollutants in storm water discharges associated with industrial activity at the facility and to assure compliance with the terms and conditions of this permit. . . . The permittee shall submit any modified plan to the Agency, when such modification includes substantive changes to the plan or modification is made to the plan for compliance with this permit.

* * *

5. The plan shall provide a description of potential sources which may be expected to add significant quantities of pollutants to storm water discharges, or which may result in non-storm water discharges from the facility. The plan shall include, at a minimum, the following items:
 - a. A topographic map extending one-quarter mile beyond the property boundaries of the facility showing: the facility, surface water bodies, wells . . . , seepage pits, infiltration ponds, and the discharge points where the facility's storm water discharges to a municipal storm drain system or other water body. . . .
 - b. A site map. . . .
 - c. A narrative description [of several specified items]. . . .

- d. A list of the types of pollutants that have a reasonable potential to be present in storm water discharges in significant quantities. Also provide a list of any pollutant that is listed as impaired in the most recent 303(d) report.
- e. An estimate of the size of the facility in acres or square feet, and the percent of the facility that has impervious areas such as pavement or buildings.
- f. A summary of existing sampling data describing pollutants in storm water discharges.

27. On May 1, 2014, and such other dates better known to Respondent, Respondent's Storm Water Pollution Prevention Plan failed to (a) include a site map that indicated which areas of the Site were paved and unpaved, (b) include a site map that indicated the unnamed drainage ditch or the discharge point for storm water to the unnamed drainage ditch near the wastewater treatment plant at the Site, (c) discuss the handling and disposal methods for waste materials; and (d) indicate if any samples had been taken to determine pollutants in storm water discharges, and if so, the results of such sampling, in violation of Sections E.1. and 5. of NPDES Permit ILR001065, thereby also violating Section 12(f) of the Act, 415 ILCS 5/12(f) (2014), and Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent, THE ARNOLD ENGINEERING CO., with respect to this Count IV:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2014), Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a), and Sections E.1. and 5. of NPDES Permit ILR001065;

3. Ordering Respondent to cease and desist from any further violations of Section 12(f) of the Act, 415 ILCS 5/12(f) (2014), Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a), and Sections E.1. and 5. of NPDES Permit ILR001065;

4. Assessing a civil penalty of Ten Thousand Dollars (\$10,000.00) against Respondent for each day during which each violation of the Act and any NPDES program-related regulation of the Board continued;

5. Ordering Respondent to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2014), including attorney, expert witness, and consultant fees expended by the Complainant 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: 
ELIZABETH WALLACE, Chief
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
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Complainant,)	
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v.)	PCB NO. 16-
)	(Enforcement - Water)
THE ARNOLD ENGINEERING CO.,)	
an Illinois corporation,)	
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Respondent.)	

MOTION FOR RELIEF FROM HEARING REQUIREMENT

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and pursuant to Section 31(c)(2) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31(c)(2) (2014), moves that the Illinois Pollution Control Board (“Board”) grant the parties in the above-captioned matter relief from the hearing requirement imposed by Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2014). In support of this motion, Complainant states as follows:

1. The Complaint in this matter alleges violations of Sections 12(a), 12(b) and 12(f) of the Act, 415 ILCS 5/12(a), 12(b) and 12(f) (2014), Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a), Special Condition 2 of Permit No. 2011-EO-1001 and Sections E.1. and 5. of NPDES Permit ILR001065.

2. Complainant is filing the Complaint with the Board simultaneous with this Motion and a Stipulation and Proposal for Settlement.

3. The parties have reached agreement on all outstanding issues in this matter.

4. The agreement is presented to the Board in a Stipulation and Proposal for Settlement filed this same date.

5. All parties agree that a hearing on the Stipulation and Proposal for Settlement is

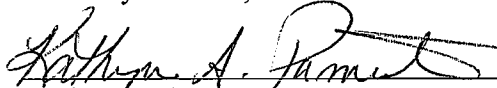
not necessary, and respectfully request relief from such a hearing as allowed by Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2014).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby requests that the Board grant this motion for relief from the hearing requirement set forth in Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2014).

Respectfully submitted,

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

BY:



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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
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Complainant,)	
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)	(Enforcement - Water)
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STIPULATION AND PROPOSAL FOR SETTLEMENT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (“Illinois EPA”), and THE ARNOLD ENGINEERING CO. (“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 11, 2016, 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

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 an Illinois corporation that is authorized to transact business in the State of Illinois.

4. At all times relevant to the Complaint, Respondent operated a magnetic alloys production facility at the property located at 300 North West Street, Marengo, McHenry County, Illinois (the "Site").

B. Allegations of Non-Compliance

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

Count I: Water Pollution in violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2014).

Count II: Violation of Permit No. 011-EO-1001 in violation of Section 12(b) of the Act, 415 ILCS 5/12(b) (2014), and Special Condition 2 of Permit No. 2011-EO-1001.

Count III: Violation of the NPDES Permit Program in violation of Section 12(f) of the Act, 415 ILCS 5/12(f) (2014), and Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a).

Count IV: Failure to Comply with Storm Water Pollution Prevention Plan Requirements in violation of Section 12(f) of the Act, 415 ILCS 5/12(f) (2014), Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a), and Sections E.1. and 5. of NPDES Permit ILR001065.

C. Non-Admission of Violations

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, 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

1. With respect to the cracks in the concrete containment wall at the Site, immediate repairs were made within a week of the May 1, 2014 inspection and after further monitoring, additional follow-up repairs were made within the next 2 months.

2. On February 18, 2015, Respondent submitted an updated Storm Water Pollution Prevention Plan for the Site to the Illinois EPA.

II. APPLICABILITY

This Stipulation shall apply to and be binding upon the Parties to the Stipulation. 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 Respondent in any subsequent enforcement action or permit proceeding as proof of a past adjudication of violation of the Act and the Board regulations for all violations alleged in the Complaint in this matter, for purposes of Sections 39 and 42 of the Act, 415 ILCS 5/39 and 42 (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. Illinois EPA alleges that human health and the environment were threatened and the Illinois EPA's information gathering responsibilities hindered by Respondent's violations.
2. There is social and economic benefit to the facility.
3. Operation of the facility was and is suitable for the area in which it is located.
4. Reducing discharges from the sump containment pit at the Site and complying with the terms of Respondent's Permit No. 2011-EO-1001 and NPDES Permit No. ILR001065 are technically practicable and economically reasonable.
5. Respondent has subsequently complied with the Act and the Board regulations.

IV. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h) (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. Complainant alleges that on May 1, 2014, and such other dates better known to Respondent, Respondent discharged process wastewater and storm water from a sump containment pit at the Site via unpermitted point sources into an unnamed drainage ditch and failed to prepare an adequate Storm Water Pollution Prevention Plan.

2. Respondent was diligent in attempting to come back into compliance with the Act and Board regulations, once the Illinois EPA notified it of its noncompliance. With respect to the cracks in the concrete containment wall at the Site, immediate repairs were made within a week of the May 1, 2014 inspection and after further monitoring, additional follow-up repairs were made within the next 2 months. On February 18, 2015, Respondent submitted an updated Storm Water Pollution Prevention Plan for the Site to the Illinois EPA.

3. The civil penalty takes into account any economic benefit realized by 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 Twenty Thousand Dollars (\$20,000.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

5. To Complainant's knowledge, Respondent has no previously adjudicated violations of the Act.

6. 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 proposed by Respondent, but rejected by the Illinois EPA.

V. TERMS OF SETTLEMENT

A. **Penalty Payment**

1. Respondent shall pay a civil penalty in the sum of Twenty Thousand Dollars (\$20,000.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

B. **Interest, and Default**

1. If Respondent fails to make any payment required by this Stipulation on or before the date upon which the payment is due, 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 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:

Kathryn A. Pamentier
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 all terms and provisions of Permit No. 2011-EO-1001 and NPDES Permit No. ILR001065, as they may be modified from time to time.

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 Site 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 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. 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 \$20,000.00 penalty, its commitment to cease and desist as contained in Section V.D.4 above, and upon the Board's approval of this Stipulation, the Complainant releases, waives and discharges Respondent from any further liability or penalties for the violations of the Act and Board regulations that were the subject matter of the Complaint herein. The release set forth above does not extend to any matters other than those expressly specified in Complainant's Complaint filed on March 11, 2016. The Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against 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 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 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.

[Remainder of Page Blank; Text Continues on Page 10]

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

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

LISA MADIGAN
Attorney General of the
State of Illinois

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

LISA BONNETT, Director
Illinois Environmental Protection Agency

BY: Elizabeth Wallace
ELIZABETH WALLACE, Chief
Assistant Attorney General
Environmental Bureau

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

DATE: 3/11/16

DATE: 3/8/16

THE ARNOLD ENGINEERING CO.

BY: _____

TITLE: _____

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 ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

LISA MADIGAN
Attorney General of the
State of Illinois

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: _____


THE ARNOLD ENGINEERING CO.

BY: Michael Stachura

Michael Stachura
Chief Financial Officer & Secretary
DATE: March 4, 2016

CERTIFICATE OF SERVICE

I, Kathryn A. Pamenter, an Assistant Attorney General, certify that on the 11th day of March, 2016, I caused to be served by U.S. Certified Mail (return receipt requested), the foregoing Notice of Filing, Complaint, Stipulation and Proposal for Settlement and Motion for Relief from Hearing Requirement to the parties named on the Notice of Filing, by depositing same in a postage prepaid envelope with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois 60601.



Kathryn A. Pamenter
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602
(312) 814-0608
KPamenter@atg.state.il.us