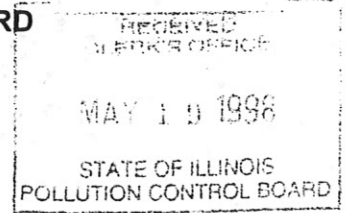


BEFORE THE ILLINOIS POLLUTION CONTROL BOARD



PEOPLE OF THE STATE OF ILLINOIS, )  
 )  
 Complainant, )  
 )  
 v. )  
 )  
 GEON COMPANY, a )  
 Delaware corporation, )  
 )  
 Respondent. )

PCB NO. 97-62  
(Enforcement)

STIPULATION AND PROPOSAL FOR SETTLEMENT

NOW COMES the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by JAMES E. RYAN, Attorney General of the State of Illinois, at the request of the Illinois Environmental Protection Agency, and Respondent, GEON COMPANY, and hereby submit this Stipulation and Proposal for Settlement. 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 full hearing were held. The parties agree that this Settlement is a compromise of a disputed claim. The parties further stipulate that this statement of facts is made and agreed upon for the purposes of settlement only and that neither the fact that a party has entered into the Stipulation, nor any of the facts stipulated herein, shall be introduced into evidence in this or any other proceeding except to enforce the terms hereof by the parties to this agreement. Notwithstanding the previous sentence, Respondent agrees that, with respect to the November 8, 1995 and September 28, 1996 release incidents cited in Complainant's Second Amended Complaint, this Stipulation and Proposal for Settlement and any Illinois Pollution Control Board ("Board") order accepting same may be used in any future enforcement action as evidence of a past adjudication of violation, as provided in Section

42(h) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/42(h) (1996).  
Complainant agrees that, with respect to the February 5, 1996, June 11, 1997, and  
December 27, 1997 releases, this Stipulation and Proposal for Settlement and any Board  
Order accepting same may not be used in any future enforcement action as evidence of a  
past adjudication of violation, as provided in Section 42(h) of the Act, 415 ILCS 5/42(h)  
(1996). The agreement shall be null and void unless the Board approves and disposes of this  
matter on each and every one of the terms and conditions of the Settlement set forth herein.

I.

**JURISDICTION**

The Board has jurisdiction of the subject matter herein and of the parties consenting  
hereto pursuant to the Act, 415 ILCS 5/1 et seq. (1996).

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  
Proposal for Settlement and to legally bind them to it.

III.

**APPLICABILITY**

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

of its officers, directors, agents, servants, or employees to take such action as shall be required to comply with the provisions of this Settlement.

**IV.**

**STATEMENT OF FACTS**

1. The Illinois Environmental Protection Agency ("Illinois EPA") is an administrative agency established in the executive branch of the State government by Section 4 of the Act, 415 ILCS 5/4 (1996), and is charged, inter alia, with the duty of enforcing the Act.

2. Respondent, Geon Company, is a Delaware corporation qualified to do business in Illinois.

3. Respondent operates a chemical plant ("facility") located at Rural Route 1, Box 15a, Henry, Marshall County, Illinois.

4. At this facility, Respondent manufactures polyvinyl chloride.

5. On March 5, 1998, the State filed a Second Amended Complaint alleging that the Respondent violated 42 U.S.C. §7412(i)(3) (1996); 40 C.F.R 61.65(a) (1996); Sections 9(a), 9(b), 9.1(d)(1) of the Act, 415 ILCS 5/9(a), 9(b), and 9.1(d)(1) (1996); 35 Ill. Adm. Code 201.141 (1996); and Respondent's Operating Permit No. 73050009.

6. Respondent has acted promptly to resolve the circumstances leading to the alleged violations.

**V.**

**FUTURE PLANS OF COMPLIANCE**

Respondent shall continue to diligently conform to the Act, 415 ILCS 5/1 et seq. (1996), 40 C.F.R. Part 61 (1996), and the Board's Air Pollution Regulations, 35 Ill. Adm. Code Subtitle B.

## VI.

### IMPACT ON THE PUBLIC RESULTING FROM NON-COMPLIANCE

Section 33(c) of the Act, 415 ILCS 5/33(c) (1996), provides;

- c. 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 or 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 as follows:

1. Complainant contends that the injury to, or interference with, the protection of the health, general welfare, and physical property of the People would be characterized as a potential for air pollution and the degree of injury would be dependent upon the extent of the pollution and the degree of exposure to that pollution.
2. The parties agree that Respondent's facility is of social and economic benefit;
3. Respondent's facility is located at a site which has been used for the operation of a chemical manufacturing facility since at least April 25, 1973, when the Illinois EPA granted Operating Permit No. 7305009 to Respondent allowing the facility to operate

emission sources and air pollution control equipment. Respondent's facility has therefore been found suitable by the Illinois EPA for such use at that location;

4. The parties agree that complying with the Act and regulations is technically practicable and economically reasonable; and

5. Respondent promptly implemented measures subsequent to the alleged violations that are the subject of the Amended Complaint in this matter in order to operate in compliance with the Act and the Board's Air Pollution Regulations.

## VII.

### **CONSIDERATION OF SECTION 42(H) FACTORS**

Section 42(h) of the Act, 415 ILCS 5/42(h) (1996), provides:

- h. in determining the appropriate civil penalty to be imposed under subdivisions (a), (b)(1), (b)(2), (b)(3), or (b)(5) of 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 violator in attempting to comply with the requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;
  3. any economic benefits accrued by the violator because of delay in compliance with requirements;
  4. the amount of monetary penalty which will serve to deter further violations by the violator and to otherwise aid in enhancing voluntary compliance with this Act by the violator and other persons similarly subject to the Act; and
  5. the number, proximity in time, and gravity of previously adjudicated violations of this Act by the violator.

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

1. The alleged violations were distinct in nature and occurred intermittently between November 8, 1995, and December 27, 1997;

2. In response to notices of noncompliance issued by the Illinois EPA, the Respondent worked diligently with the Illinois EPA to resolve its operational problems in order to comply with the Act;

3. The economic benefit of Respondent's alleged noncompliance is the savings, if any, realized by not having in place adequate safety relief valve equipment and a preventative maintenance program to ensure proper operations and maintenance of the affected equipment. Respondent contends that it received no economic benefit as a result of the releases cited in the Second Amended Complaint;

4. Complainant has determined, in this instance, that a penalty of twenty thousand (\$20,000.00) will serve to deter further violations and aid in future voluntary enforcement of the Act and applicable regulations.

### VIII.

#### TERMS OF SETTLEMENT

A. Respondent does not admit violating 42 U.S.C. §7412(i)(3) (1996); 40 C.F.R 61.65 et seq. (1996); Sections 9(a), 9(b), 9.1(d)(1) of the Act, 415 ILCS 5/9(a), 9(b), and 9.1(d)(1) (1996); 35 Ill. Adm. Code 201.141 (1996); and Respondent's Operating Permit No. 73050009;

B. The Respondent shall pay a penalty of twenty thousand dollars (\$20,000.00) into the Illinois Environmental Protection Trust Fund within thirty (30) days from the date on which the Pollution Control Board adopts a final order approving this Stipulation and Proposal for Settlement. Payment shall be made by certified check or money order, payable to the

Treasurer of the State of Illinois, designated to the Environmental Protection Trust Fund, and shall be sent by first class mail to:

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

Respondent's Federal Employer Identification Number ("FEIN") shall be written upon the certified check or money order. Respondent's FEIN is: 34 - 1730488

A copy of the payment transmittal and check shall be simultaneously submitted to:

Office of the Attorney General  
Environmental Bureau  
500 South Second Street  
Springfield, Illinois 62706

C. Respondent recognizes its obligations under the Act to comply with 42 U.S.C. §7412(i)(3) (1996); 40 C.F.R 61.65(a) (1996); Sections 9(a), 9(b), 9.1(d)(1) of the Act, 415 ILCS 5/9(a), 9(b), and 9.1(d)(1) (1996); 35 Ill. Adm. Code 201.141 (1996); and Respondent's Operating Permit No. 73050009. This agreement represents the full and final settlement of all claims against Respondent that are referenced in the Second Amended Complaint filed on March 5, 1998, and all claims that are related to any and all applicable environmental laws and regulations and known by Complainant and/or the Illinois Environmental Protection Agency through December 27, 1997.

#### IX.

#### COMPLIANCE WITH OTHER LAWS AND REGULATIONS

This Stipulation and Proposal for Settlement in no way affects the responsibility of Respondent to comply with any federal, state, or local regulations, including but not limited to the Act, 415 ILCS 5/1 et seq. (1996), 40 C.F.R. Part 61 (1996), and the Board's Rules and Regulations, 35 Ill. Adm. Code, Subtitles A through H.

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

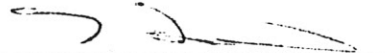
Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,

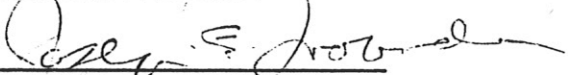
JAMES E. RYAN,  
Attorney General  
State of Illinois,

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

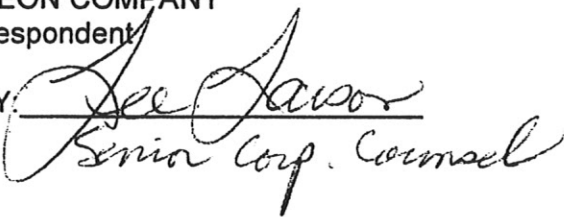
Dated: 5/04/98

BY:   
THOMAS DAVIS, Chief  
Environmental Bureau  
Assistant Attorney General

Dated: 5/12/98

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY  
BY:   
JOSEPH E. SVOBODA  
General Counsel  
Division of Legal Counsel

Dated: 4/28/98

GEON COMPANY  
Respondent  
BY:   
Senior Corp. Counsel



**CERTIFICATE OF SERVICE**


I hereby certify that I did on the 18th day of May, 1998, send by First Class Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instruments entitled MOTION FOR RELIEF FROM HEARING REQUIREMENT and STIPULATION AND PROPOSAL FOR SETTLEMENT

To: Rick Saines, Esq.  
Gardner, Carton & Douglas  
321 North Clark Street  
First of America Center  
Suite 3400 - Quaker Tower  
Chicago, Illinois 60610-4795

John Burds  
Hearing Officer  
Illinois Pollution Control Board  
100 West Randolph  
State of Illinois Center  
Chicago, Illinois 60601

and the original and ten true and correct copies of the same foregoing instruments on the same date by First Class Mail with postage thereon fully prepaid

To: Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
State of Illinois Center  
100 W. Randolph  
Chicago, IL 60601

  
JANE E. MCBRIDE  
Assistant Attorney General  
Environmental Bureau/Springfield