

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
vs.)	PCB No.
)	(Enforcement)
RR DONNELLEY & SONS COMPANY,)	
a Delaware corporation,)	
)	
Respondent.)	

NOTICE OF ELECTRONIC FILING

To: See Attached Service List

PLEASE TAKE NOTICE that on September 12, 2013, I electronically filed with the Clerk of the Pollution Control Board of the State of Illinois, c/o John T. Therriault, Assistant Clerk, James R. Thompson Center, 100 W. Randolph St., Ste. 11-500, Chicago, IL 60601, a MOTION FOR RELIEF FROM HEARING REQUIREMENT, COMPLAINT, and STIPULATION AND PROPOSAL FOR SETTLEMENT, copies of which are attached hereto and herewith served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN,
Attorney General of the
State of Illinois

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

BY: 
Amanda Kimmel
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: September 12, 2013

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
vs.)	PCB No.
)	(Enforcement)
RR DONNELLEY & SONS COMPANY,)	
a Delaware corporation,)	
)	
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) (2010), moves that the Illinois Pollution Control 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) (2010). In support of this motion, Complainant states as follows:

1. A Complaint is being filed simultaneously herewith with the Illinois Pollution Control Board ("Board") in this matter.
2. The parties have reached agreement on all outstanding issues in this matter.
3. This agreement is presented to the Board in a Stipulation and Proposal for Settlement, filed contemporaneously with this motion.
4. 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) (2010).

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) (2010).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS
LISA MADIGAN
ATTORNEY GENERAL

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

BY:



Amanda Kimmel
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
217/782-9031

Dated: September 12, 2013

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF)	
ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB NO.
)	(Enforcement)
RR DONNELLEY & SONS COMPANY,)	
a Delaware corporation,)	
)	
Respondent.)	

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, RR DONNELLEY & SONS COMPANY, as follows:

COUNT I
PERMIT CONDITION VIOLATIONS

1. This Complaint is brought by the Attorney General 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(2010).

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(2010), and charged, *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board ("Board").

3. This Complaint is brought pursuant to Section 31 of the Act, 415 ILCS 5/31(2010), after providing the Respondent with notice and the opportunity for a meeting with the Illinois EPA.

4. Respondent, RR Donnelley & Sons Company, is a Delaware corporation registered to do business in Illinois. Respondent's registered agent is CT Corporation System, 208 South LaSalle Street, Suite 814, Chicago Illinois 60604.

5. Respondent operates a printing plant at 801 North Union Street, Dwight, Livingston County, Illinois, 60420 ("Facility" or "Source").

6. At all times relevant to this complaint, Respondent's primary business at the Facility was operating a printing plant.

7. On December 27, 2007, Illinois EPA issued Respondent a Clean Air Act Permit Program ("CAAPP"), CAAPP Permit No. 95090125.

8. At all times relevant to this Complaint, the emissions units at the Facility are five heatset/non-heatset web offset lithographic printing presses, nine non-heatset offset lithographic printing presses, two paper collection systems, and two boilers.

9. Respondent's operation of the Source is subject to the Act and the Illinois Pollution Control Board ("Board") and Illinois EPA rules and regulations for air pollution, which are found in Title 35, Subtitle B, of the Illinois Administrative Code ("Air Pollution Regulations").

10. Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a)(2010), provides:

Prohibitions.

- a. It shall be unlawful for any person to violate any terms or conditions of a permit issued under this Section, to operate any CAAPP source except in compliance with a permit issued by the Agency under this Section or to violate any other applicable requirements. All terms and conditions of a permit issued under this Section are enforceable by USEPA and citizens under the Clean Air Act, except those, if any, that are specifically designated as not being federally enforceable in the permit pursuant to paragraph 7(m) of this Section.

11. Section 3.315 of the Act, 415 ILCS 5/3.315(2010), provides 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.

12. Respondent, a corporation, is a "person," as that term is defined in Section 3.315 of the Act, 415 5/3.315(2010).

13. Section 39.5(1) of the Act, 415 ILCS 5/39.5(1)(2010), provides the following definitions:

"CAAPP" means the Clean Air Act Permit Program, developed pursuant to Title V of the Clean Air Act.

"CAAPP Permit" . . . means any permit issued, renewed, amended, modified or revised pursuant to Title V of the Clean Air Act.

"CAAPP source" means any source for which the owner or operator is required to obtain a CAAPP permit pursuant to subsection 2 of this Section.

"Owner or operator" means any person who owns, leases, operates, controls, or supervises a stationary source.

14. At all times relevant to this Complaint, Respondent has been an "owner or operator" of a "CAAPP source", as those terms are defined in Section 39.5(1) of the Act, 415 ILCS 5/39.5(1)(2010).

15. Respondent's CAAPP Permit No. 95090125 includes Condition 9.8, which states in part:

Pursuant to Section 39.5(7)(p)(v) of the Act, the Permittee shall submit annual compliance certifications. The compliance certifications shall be submitted no later than May 1 or more frequently as specified in the applicable requirements or by permit conditions. . . .

16. Pursuant to CAAPP Permit No. 95090125, Respondent was required to submit its annual compliance certification no later than May 1 of each year.

17. For the 2011 calendar year, Respondent was required to submit its annual compliance certification no later than May 1, 2012, pursuant to CAAPP Permit No. 95090125.

18. On September 21, 2012, the Illinois EPA issued Violation Notice ("VN") A-2012-00148 to Respondent alleging it failed to submit an annual compliance certification for calendar year 2011. On October 1, 2012, Respondent submitted a proposed Compliance Commitment Agreement ("CCA") to the Illinois EPA. The CCA was rejected by the Illinois EPA by letter dated October 18, 2012.

19. On October 1, 2012, Respondent submitted an annual compliance certification for the 2011 calendar year.

20. A Notice of Intent to Pursue Legal Action was issued to Respondent on October 24, 2012. A meeting pursuant to Section 31 of the Act occurred on November 20, 2012 with representatives of the Illinois EPA and Respondent.

21. Since Respondent's annual compliance certification was not filed by the prescribed May 1st permit deadline, the compliance certification was not timely.

22. Respondent did not timely submit its annual compliance certification for the 2011 calendar year.

23. By failing to submit the annual compliance certification for the 2011 calendar year in a timely manner, Respondent has violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a)(2010) and Condition 9.8 of CAAPP Permit No. 95090125.

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent, RR DONNELLEY & SONS COMPANY:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act;
- D. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000) for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000) for each day during which each violation has continued thereafter;
- E. Awarding to Complainant its costs and reasonable attorney's fees; and
- F. Granting such other relief as the Board may deem appropriate.

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

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

BY: Matthew J. Dunn
THOMAS DAVIS, Chief
Environmental Bureau
Assistant Attorney General

Of Counsel
AMANDA KIMMEL
ARDC# 6303715
500 South Second Street
Springfield, Illinois 62706
217/557-9457
Dated: September 11, 2013

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF)	
ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB NO.
)	(Enforcement)
RR DONNELLEY & SONS COMPANY,)	
)	
Respondent.)	

STIPULATION AND PROPOSAL FOR SETTLEMENT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, the Illinois Environmental Protection Agency (“Illinois EPA”), and Respondent, d/b/a RR DONNELLEY & SONS COMPANY, (“Respondent”) (“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.* (2010), 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. Filed simultaneously with this Stipulation, is a Complaint 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 (2010), 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 (2010).

3. At all times relevant to the Complaint, Respondent was and is a Delaware corporation registered to do business in Illinois.

4. At all times relevant to the Complaint, Respondent operates a printing plant at 801 North Union Street, Dwight, Livingston County, Illinois, 60420 ("Facility" or "Source"). At all times relevant to this complaint, Respondent's primary business at the Facility was operating a printing plant.

5. On December 27, 2007, Illinois EPA issued Respondent Clean Air Act Permit Program ("CAAPP") Permit No. 95090125.

6. For the 2011 calendar year, Respondent was required to submit its annual compliance certification no later than May 1, 2012, pursuant to CAAPP Permit No. 95090125.

7. On October 1, 2012, Respondent submitted an annual compliance certification for the 2011 calendar year.

B. Allegations of Non-Compliance

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

Count I: Permit Condition Violations
Respondent failed to submit the annual compliance certification for the 2011 calendar year in a timely manner, in violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a)(2010) and Condition 9.8 of CAAPP Permit No. 95090125.

C. Admission of Violation

The Respondent admits to the violation alleged in the Complaint filed in this matter and

referenced within Section I.B herein.

D. Compliance Activities to Date

1. On October 1, 2012, Respondent submitted an annual compliance certification for the 2011 calendar year.

II. APPLICABILITY

This Stipulation shall apply to and be binding upon the Parties to the Stipulation. The Respondent shall not raise as a defense to any enforcement action taken pursuant to this Stipulation the failure of any of its officers, directors, agents, employees or successors or assigns to take such action as shall be required to comply with the provisions of this Stipulation. This Stipulation may be used against the Respondent in any subsequent enforcement action or permit proceeding as proof of a past adjudication of violation of the Act 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 (2010).

III. IMPACT ON THE PUBLIC RESULTING FROM ALLEGED NON-COMPLIANCE

Section 33(c) of the Act, 415 ILCS 5/33(c)(2010), provides as follows:

In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges, or deposits involved including, but not limited to:

1. the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
2. the social and economic value of the pollution source;
3. the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;
4. the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and

5. any subsequent compliance.

In response to these factors, the Parties to the Stipulation state the following:

1. The Complainant alleges that failure by Respondent to timely submit the annual compliance certification hindered the Illinois EPA's ability to ensure compliance with applicable federal and state environmental laws and regulations.
2. There is social and economic benefit to the facility resulting from the printing operations performed by Respondent at the facility.
3. Respondent's operations are suitable to the area in which they are located.
4. Submitting an annual compliance certification and compliance with the CAAPP permit terms is both 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)(2012), 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. The Respondent failed to timely submit the annual compliance certification which by the conditions of its CAAPP permit was due on May 1, 2012. The violation began on or around May 1, 2012 and continued until October 1, 2012.
2. Respondent was diligent in attempting to come back into compliance with the Act and applicable regulations, once the Illinois EPA notified it of its noncompliance.
3. Any economic benefit attributable to the noncompliance would be minimal.
4. Complainant has determined, based upon the specific facts of this matter, that a penalty of Five Thousand Dollars (\$5,000.00) 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. On October 1, 2012, Respondent submitted a proposed Compliance Commitment Agreement ("CCA") under subsection (a) of Section 31 of the Act. The CCA was rejected by the Illinois EPA on October 18, 2012.

V. TERMS OF SETTLEMENT

A. Penalty Payment

1. The Respondent shall pay a civil penalty in the sum of Five Thousand Dollars (\$5,000.00) within thirty (30) days from the date Respondent receives notification that the Board adopts and accepts this Stipulation.

B. Stipulated Penalties, Interest and Default

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

2. Pursuant to Section 42(g) of the Act, interest shall accrue on any penalty amount owed by the Respondent not paid within the time prescribed herein. Interest on unpaid penalties shall begin to accrue from the date such are due and continue to accrue to the date full payment is received. Where partial payment is made on any penalty amount that is due, such partial payment shall be first applied to any interest on unpaid penalties then owing.

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, IL 62794-9276

2. The name, case number and the Respondent's federal tax identification number shall appear on the face of the certified check or money order. A copy of the certified check or money order and any transmittal letter shall be sent to:

Amanda S. Kimmel
Environmental Bureau
Illinois Attorney General's Office
500 South Second Street
Springfield, Illinois 62706

D. Future Compliance

1. Respondent shall submit its annual compliance certification by the May 1st deadline pursuant to Condition 9.8 of CAAPP Permit No. 95090125.

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 Respondent's facility which is the subject of this Stipulation, at all reasonable times for the purposes of conducting inspections and evaluating compliance status. In conducting such inspections, the Illinois EPA, its employees and representatives, 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 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.

4. The Respondent shall cease and desist from future violations of the Act that were the subject matter of the Complaint.

E. Release from Liability

In consideration of the Respondent's payment of the \$5,000.00 penalty, its commitment to cease and desist as contained in Section V.D. above, completion of all activities required hereunder, and upon the Board's approval of this Stipulation, the Complainant releases, waives and discharges the Respondent from any further liability or penalties for the violations of the Act 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 simultaneously with this Stipulation. The Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against the Respondent with respect to all other matters, including but not limited to, the following:

- a. criminal liability;
- b. liability for future violation of state, federal, local, and common laws and/or regulations;
- c. liability for natural resources damage arising out of the alleged violations; and
- d. liability or claims based on the Respondent's failure to satisfy the requirements of this Stipulation.

Nothing in this Stipulation is intended as a waiver, discharge, release, or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the State of Illinois may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315, or entity other than the Respondent.

F. Correspondence, Reports and Other Documents

Any and all correspondence, reports and any other documents required under this Stipulation, except for penalty payments, shall be submitted as follows:

As to the Complainant
Amanda S. Kimmel
Assistant Attorney General
Environmental Bureau
500 South Second Street
Springfield, Illinois 62702

Maureen Wozniak
Assistant Counsel
Illinois EPA
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

As to the Respondent
Mary Beth Tighe
Vice President & Associate General Counsel
RR Donnelley & Sons
111 South Wacker Drive
Chicago, Illinois 60606

G. Enforcement and Modification of Stipulation

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

2. The Parties to the Stipulation may, by mutual written consent, agree to extend any compliance dates or modify the terms of this Stipulation. A request for any modification shall be made in writing and submitted to the contact persons identified in Section V.F. Any such request shall be made by separate document, and shall not be submitted within any other report or submittal required by this Stipulation. Any such agreed modification shall be in writing, signed by authorized representatives of the Parties to the Stipulation.

H. Execution of Stipulation

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

Stipulation and to legally bind them to it.

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

PEOPLE OF THE STATE OF ILLINOIS,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

LISA MADIGAN
Attorney General
State of Illinois

LISA BONNETT, Director
Illinois Environmental Protection Agency

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

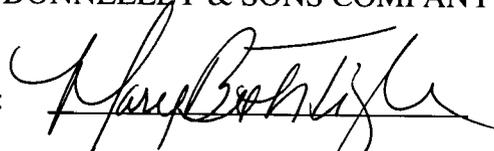
BY: 
THOMAS DAVIS, Chief
Environmental Bureau
Assistant Attorney General

BY: 
JOHN J. KIM
Chief Legal Counsel

DATE: 9/11/13

DATE: 9/10/13

RR DONNELLEY & SONS COMPANY

BY: 
Name: Mary Beth Tighe

Title: Vice President & Associate
General Counsel

DATE: September 3, 2013

CERTIFICATE OF SERVICE

I hereby certify that I did on September 12, 2013, cause to be served by First Class Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box in Springfield, Illinois, a true and correct copy of the following instruments entitled NOTICE OF ELECTRONIC FILING, MOTION FOR RELIEF FROM HEARING REQUIREMENT, COMPLAINT and STIPULATION AND PROPOSAL FOR SETTLEMENT upon the persons listed on the Service List.



Amanda Kimmel
Assistant Attorney General

This filing is submitted on recycled paper.

SERVICE LIST

Mary Beth Tighe
Vice President & Associate General Counsel for
RR Donnelley & Sons
111 South Wacker Drive
Chicago, IL 60606

Jean Warshaw
Axiom Attorney
450 East 78th Street, Floor 2
New York, NY 10075