

ILLINOIS POLLUTION CONTROL BOARD  
December 20, 1995

PEOPLE OF THE STATE	)	
OF ILLINOIS,	)	
	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 96-103
	)	(Enforcement-Air)
CENTRAL DECAL COMPANY,	)	
an Illinois corporation,	)	
	)	
Respondent.	)	

OPINION AND ORDER OF THE BOARD:

This matter comes before the Board upon a three-count complaint filed November 13, 1995 by the Attorney General of the State of Illinois, on behalf of the Illinois Environmental Protection Agency and the People of the State of Illinois, against Central Decal Company (Central Decal), an Illinois corporation, as respondent, located at 6901 High Grove Blvd., Burr Ridge, DuPage County, Illinois. The complaint alleges that Central Decal has violated Sections 9(a) and 9(b) of the Illinois Environmental Protection Act (Act), 415 ILCS 5/9(a), 5/9(b) and 35 Ill. Adm. Code 201.142, 201.143 and 218.204(c) by constructing and operating emission sources without the proper permits and by causing or allowing emission violations.

Pursuant to 415 ILCS 5/31(a)(2), the parties filed a joint motion requesting relief from the Act's hearing requirement on November 13, 1995. The Board published a notice of the waiver on November 17, 1995; no objection to the granting of the waiver was received. Waiver of hearing is hereby granted.

The parties filed a Stipulation and Settlement Agreement on November 13, 1995. The Stipulation sets forth facts relating to the nature, operations and circumstances surrounding the claimed violations. Central Decal neither admits or denies the alleged violations and agrees to pay a civil penalty of twelve thousand dollars (\$12,000.00).

The Board finds the settlement agreement acceptable under 35 Ill. Adm. Code 103.180. This settlement agreement in no way affects respondent's responsibility to comply with any federal, state or local regulations, including but not limited to the Act and the Board's pollution control regulations.

This opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

- 1) The Board hereby accepts the Stipulation and Settlement Agreement executed by the People of the State of Illinois and Central Decal Company, an Illinois corporation, as respondent, located at 6901 High Grove Blvd., Burr Ridge, DuPage County, Illinois. The Stipulation and Settlement Agreement are incorporated by reference as though fully set forth herein.
- 2) Central Decal shall pay a civil penalty of twelve thousand dollars (\$12,000.00) within 30 days of the date of this Order. Such 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 Division  
2200 Churchill Road  
P.O. Box 19276  
Springfield, IL 62794-9276

The certified check or money order shall clearly indicate on its face Central Decal's Federal Employer Identification Number 36-2663242 and that payment is directed to the Environmental Protection Trust Fund.

A copy of the payment check shall be sent to:

Zemeheret Bereket-Ab  
Assistant Attorney General  
Environmental Bureau  
100 W. Randolph  
Chicago, Illinois 60601

Any such penalty not paid within the time prescribed shall incur interest at the rate set forth in subsection (a) of Section 1003 of the Illinois Income Tax Act, (35 ILCS 5/1003), as now or hereafter amended, from the date payment is due until the date payment is received. Interest shall not accrue during the pendency of an appeal during which payment of the penalty has been stayed.

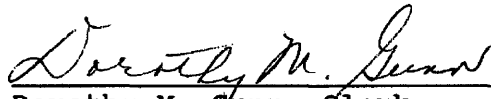
- 3) Central Decal shall cease and desist from the alleged violations.

IT IS SO ORDERED.

Board Member J. Theodore Meyer concurred.

Section 41 of the Environmental Protection Act (415 ILCS 5/41) provides for the appeal of final Board orders within 35 days of the date of service of this order. (See also 35 Ill. Adm. Code 101.246, Motion for Reconsideration.)

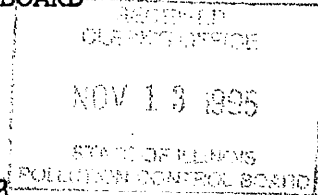
I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the 20<sup>th</sup> day of December, 1995, by a vote of 7-0.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, )  
 )  
 Complainant, )  
 )  
 v. )  
 )  
 CENTRAL DECAL COMPANY, an Illinois )  
 Corporation, )  
 )  
 )  
 Respondent. )

PCB 96-103  
(Enforcement)



STIPULATION AND PROPOSAL FOR SETTLEMENT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by JAMES E. RYAN, Attorney General of the State of Illinois, on his own motion and at the request of the Illinois Environmental Protection Agency, and Respondent, CENTRAL DECAL COMPANY, do hereby submit this Stipulation and Proposal for Settlement. The parties agree that the statement of facts contained herein is made and agreed upon for purposes of settlement only and that neither the fact that a party has entered into this Stipulation and Proposal for Settlement, 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 foregoing, this Stipulation and Proposal for Settlement and any order entered by the Illinois Pollution Control Board ("Board") accepting same may be used in any future enforcement action as evidence of a past adjudication of violation of the Illinois Environmental Protection Act ("Act") for purposes of Section 42(h) of the Act, 415 ILCS 5/42(h) (1994). This Stipulation and Proposal for Settlement 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.* (1994).

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, 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 ("Agency") is an administrative agency established in the executive branch of the State government by Section 4 of the Act, 415 ILCS 5/4 (1994), and charged, *inter alia*, with the duty of enforcing the Act.

2. Respondent, Central Decal Company, ("Central Decal") is an Illinois corporation with a manufacturing plant located at 6901 High Grove Blvd., Burr Ridge, DuPage County, Illinois ("Burr Ridge Facility"). Respondent previously owned and operated a second facility located at 6025 South New England, Chicago, Cook County, Illinois ("Chicago Facility") from a date better known to Central Decal until on or about July 25, 1994.

3. At all times relevant to the Complaint, Central Decal manufactures decals for the automotive industry. To manufacture decals for the automotive industry, Central Decal employs a number of emission sources. The sources which are the subject matter of this stipulation are three solvent laminators, five screen printing presses, one ink mixing booth and one ultra-violet ("UV") laminator.

4. Section 201.102 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.102, provides, in pertinent part, the following definitions:

"Construction": commencement of on-site fabrication, erection or installation of an emission source or of air pollution control equipment.

"Emission Source": any equipment or facility of a type capable of emitting specified air contaminants to the atmosphere.

"New Emission Source": any emission source,

the construction or modification of which is commenced on or after April 14, 1972.

"Specified Air Contaminant": any air contaminant as to which this Subtitle contains emission standards or other specific limitations and any contaminant regulated in Illinois pursuant to Section 9.1 of the Act.

5. The three laminators, five screen printing presses, one UV laminator, and one ink mixing booth, are capable of emitting volatile organic material ("VOM"), a specified air contaminant, into the atmosphere. The items of equipment listed herein were constructed after April 14, 1972 and are emission sources as that term is defined in 35 Ill. Adm. Code 201.102.

6. Section 9(a) and (b) of the Act, 415 ILCS 5/9(a) and (b) (1994), provides:

No person shall:

- a. Cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act;
- b. Construct, install, or operate any equipment, facility, vehicle, vessel, or aircraft capable of causing or contributing to air pollution or designed to prevent air 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.

7. Sections 201.142 and 201.143 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.142 and 201.143, provide:

Section 201.142      Construction Permit Required

No person shall cause or allow the construction of any new emission source or any new pollution control equipment, or cause or allow the modification of any existing emission source or air pollution control equipment, without first obtaining a construction permit from the Agency, except as provided in Section 201.146.

Section 201.143      Operating Permits for  
New Sources

No person shall cause or allow the operation of any new emission source or new air pollution control equipment of a type for which a construction permit is required by Section 201.142 without first obtaining an operating permit from the Agency, except for such testing operations as may be authorized by the construction permit. Applications for operating permits shall be made at such times and contain such information (in addition to the information required by Section 201.157) as shall be specified in the construction permit.

8.    Section 218.204(c) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 218.204(c), titled, Emission Limitations, provides, in pertinent part:

Except as provided in Section 218.208 of this Part, no owner or operator of a coating line shall apply at any time any coating in which the VOM content exceeds the following emission limitations for the specified coating.

	*	*	*
c)	Paper coating	$\frac{\text{kg/l}}{0.35}$	$\frac{\text{lb/gal}}{(2.9)}$



V.

ALLEGED VIOLATIONS

1. Complainant alleges that Central Decal operated each emission source described herein at its Chicago facility.

2. Complainant alleges that on or about December 1993, Central Decal converted one solvent laminator into a thermal laminator/corona treater, which Central Decal thereafter designated as a corona laminator.

3. Complainant alleges that Central Decal removed one corona laminator and one solvent laminator from its Chicago Facility and constructed each emission source at its Burr Ridge Facility, sometime prior to September 23, 1994, on a date or dates better known to Respondent, without first applying for and obtaining a construction permit from the Agency.

4. Complainant alleges that Central Decal constructed one UV laminator at its Burr Ridge facility in March 1994, on a date better known to Respondent, without first applying for and obtaining a construction permit from the Agency.

5. Complainant alleges that from at least August 16, 1991, to on or about December 28, 1993, on dates better known to Central Decal, Respondent operated unpermitted one solvent laminator and one corona laminator at its Chicago Facility. On or about September 1994, Central Decal discontinued the use of a third laminator located at the Chicago Facility, on a date better known to Respondent. Central Decal operated each emission source without first applying for and obtaining an operating permit from the Agency.

6. Complainant alleges that from at least August 16, 1991, and ending prior to December 28, 1993, Central Decal operated one solvent laminator, one corona laminator, five screen printing presses and one ink mixing booth at its Chicago Facility, without first applying for and obtaining an operating permit from the Agency. Further, Complainant alleges that from on or about December 28, 1993, to September 23, 1994, Central Decal operated each emission source at its Burr Ridge facility without first applying for and obtaining an operating permit from the Agency. On September 28, 1994, operating permit number 931000006 was issued for each emission source.

7. Complainant alleges that from March 1994 to the present, Central Decal has operated one UV laminator at its Burr Ridge facility without first applying for and obtaining an operating permit from the Agency.

8. Complainant alleges that since at least August 16, 1991, and continuing until on or about September 23, 1994, on a date better known to Respondent, Central Decal has caused or allowed the use of coatings with a VOM content in excess of 2.9 lb/gal. On September 23, 1994, the Agency issued operating permit number 931000006 to Central Decal.

9. Complainant alleges that Central Decal's acts and omissions constitute violations of Section 9(a) and (b) of the Act, 415 ILCS 5/9(a) and (b) (1994), and Sections 201.142, 201.143, and 218.204(c) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.142, 201.143 and 218.204(c).

VI.

NATURE OF RESPONDENT'S OPERATIONS AND CONTROL EQUIPMENT

At its Burr Ridge Facility, Central Decal manufactures safety decals for the automotive industry. These safety decals must be of the type that resist chemical attack from gasoline, battery acid, high temperatures, abrasion and extreme cold. In the production of safety decals, Central Decal uses both thermal and ultraviolet lamination.

VII.

EXPLANATION OF PAST FAILURES TO COMPLY WITH THE ACT

Respondent contends that it does not use paper coatings, as alleged by Complainant, but instead uses acrylate resin coatings and, as such, the 2.9 lb/gal limitation does not apply to acrylate resin coatings. Furthermore, Central Decal contends that it was in the process of developing alternative non-polluting technologies such as thermal and ultraviolet lamination as an alternative to incineration.

VIII.

FUTURE PLANS OF COMPLIANCE

Respondent, Central Decal shall adhere to the permitting requirements and emissions limitations imposed by Board regulations. Further, Central Decal shall apply for and obtain an operating permit from the Agency for the one UV laminator.

IX.

IMPACT ON THE PUBLIC RESULTING FROM NON-COMPLIANCE

Section 33(c) of the Act, 415 ILCS 5/33(c) (1994), provides:

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

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

In response to these factors the parties state as follows:

1. Impact to the public resulting from Central Decal's failure to comply with the Act and the Board's permit regulations was that the Agency and the public were not privy to information that is important to the monitoring of various emission sources. The permit process is the only method available for the State to identify and monitor emission sources, and their potential environmental impact. Furthermore, the discharge of emissions of

greater than 2.9 lbs/gal of VOM is a potential health hazard.

2. The parties agree that Central Decal's manufacture of safety decals for the automotive industry is of social and economic value.

3. Respondent's operation at the Facility are suitable to the area in which the Facility is located.

4. Central Decal agrees that it was technically practicable and economically reasonable for Respondent to apply for and obtain the requisite permits from the Agency before it commenced construction and operation of the various emission sources mentioned herein.

5. Central Decal came into compliance on or about September 23, 1994, by developing both thermal and ultraviolet lamination technologies to reduce the emissions from the various sources. At present, all emission sources at the Burr Ridge Facility are permitted except, one remaining solvent laminator transferred from Central Decal's Chicago Facility to a storage area located in Burr Ridge, in addition to one UV laminator.

X.

CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h) (1994), provides:

In determining the appropriate civil penalty to be imposed under subdivisions (a), (b)(1), (b)(2), or (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. From at least August 16, 1991, and continuing to September 23, 1994, Central Decal operated without the requisite Agency permits, and caused or allowed the discharge of emissions greater than 2.9 lbs/gal of volatile organic materials from the three solvent laminators at the Chicago Facility. With respect to gravity, the Chicago Facility is located in a non-attainment area for ozone.

2. Central Decal has demonstrated due diligence in attempting to comply with the requirements of the Act and regulations thereunder through research and development of new compliant thermal and ultraviolet laminating technologies at an estimated total expenditure of \$300,000.00.

3. Central Decal accrued economic benefits by continuing to operate three laminators in violation of the Act and regulations

thereunder during the development of new compliant thermal and ultraviolet laminating technologies, and by not paying annual site fees for the period during which emission sources were operated unpermitted at Central Decal's Chicago Facility.

4. A civil penalty of twelve thousand dollars (\$12,000.00) is reasonable based on the duration and nature of the violations and will serve to deter further violations of the Act and Board regulations and will also aid in enhancing voluntary compliance with the requirements of the Act.

5. Complainants records do not reflect previously adjudicated violations of the Act by Central Decal.

## XI.

### TERMS OF SETTLEMENT

1. Respondent, Central Decal, neither admits nor denies to past violations of Section 9(a) and (b) of the Act, 415 ILCS 5/9(a) and (b) (1994), and 35 Ill. Adm. Code 201.142, 201.143 and 218.204(c).

2. Respondent, Central Decal, shall pay a civil penalty of \$12,000.00 (twelve thousand dollars) into the Illinois Environmental Protection Trust Fund within thirty (30) days from the date on which the 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 Illinois Environmental Protection Trust Fund, and shall be sent by first class mail to:

Illinois Environmental Protection Agency  
Fiscal Services Section  
2200 Churchill Road  
P.O. Box 19276  
Springfield, IL 62794-9276

Respondent's Federal Employers Identification Number is 36-2663242  
which shall appear on the face of the certified check or money  
order. A copy of the certified check shall be sent to:

Zemeheret Bereket-Ab  
Assistant Attorney General  
Environmental Bureau  
100 W. Randolph St., 12th Floor  
Chicago, Illinois 60601

3. Pursuant to Section 42(g) of the Act, 415 ILCS 5/42(g)  
(1994), interest shall accrue on any penalty amount not paid within  
the time prescribed herein, at the maximum rate allowable under  
Section 1003(a) of the Illinois Income Tax Act, 35 ILCS 5/1003(a)  
(1992).

- a. Interest on unpaid penalties shall begin to accrue  
from the date the penalty payment is due and  
continue to accrue to the date payment is received.
- b. Where partial payment is made on any payment amount  
that is due, such partial payment shall be first  
applied to any interest on unpaid penalties then  
owing.
- c. All interest on penalties owed the Plaintiff, shall  
be paid by certified check payable to the Treasurer  
of the State of Illinois for deposit in the  
Environmental Protection Trust Fund and delivered in  
the same manner as described in paragraph 4 herein.

4. Central Decal shall not utilize the third laminator  
located at its Burr Ridge facility, without first applying for and  
obtaining the requisite permit from the Agency.

5. Respondent, Central Decal, shall cease and desist from  
future violations of the Act and regulations promulgated thereunder.



6. Central Decal shall apply for and obtain an operating permit for one UV laminator from the Agency.

7. Respondent shall comply with all requirements of the Act and the permitting requirements and air emissions limitations promulgated in the Board's Air Pollution Regulations.

## XII.

### COMPLIANCE WITH OTHER LAWS AND REGULATIONS

This Stipulation and Proposal for Settlement in no way affects Respondent's responsibility to comply with any federal, state or local regulations, including but not limited to, the Act, 415 ILCS 5/1 et seq. (1994), and the Board's Air Pollution Regulations, 35 Ill. Adm. Code Subtitles A through H.

## XIII.

### RIGHT OF ENTRY

In addition to any other authority at law, the Agency, its employees and representatives, and the Illinois Attorney General, his agents and representatives, shall have the right of entry to Central Decal's facilities at all reasonable times, for the purposes of conducting inspections. The Agency, its employees and representatives, and the Attorney General, his agents and representatives, may take any photographs or samples as they deem necessary in order to conduct their inspection.

XIV.

RELEASE FROM LIABILITY

In consideration of Respondent's payment of a \$12,000.00 (twelve thousand dollars) civil penalty, commitment to apply for and obtain a permit to operate one UV laminator, and commitment to refrain from further violations of the Act and regulations promulgated thereunder, the Complainant releases, waives and discharges Respondent from any further liability or penalties from violations of the Act which were the subject matter of the Complaint herein. However, nothing in this Stipulation and Proposal for Settlement shall be construed as a waiver by Complainant of the right to redress future violations or obtain penalties with respect thereto.

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

AGREED:

FOR THE COMPLAINANT:

PEOPLE OF THE STATE OF ILLINOIS

JAMES E. RYAN  
Attorney General of the  
State of Illinois

MATTHEW J. DUNN, Chief  
Environmental Enforcement Division

By: W.D. Seith  
WILLIAM D. SEITH, Chief  
Environmental Bureau  
Assistant Attorney General

Dated: 11/2/95

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By: Joseph E. Svobeda  
JOSEPH E. SVOBODA  
General Counsel  
Division of Legal Counsel

Dated: 10-30/95

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FOR THE RESPONDENT:

CENTRAL DECAL COMPANY

By: Howard Kaplan Jr.  
Name: HOWARD KAPLAN JR  
Title: VICE PRESIDENT

Dated: 10/13/95