



Service List

Bradley P. Halloran  
Hearing Officer  
Illinois Pollution Control Board  
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(Via Email)

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(Via Email)

**CERTIFICATE OF SERVICE**

I, Kevin Garstka, an Assistant Attorney General, certify that on the 12th day of May 2025, I caused to be served the foregoing Notice of Filing and Complaint on the parties named on the attached Service List by electronic mail.

/s/ Kevin Garstka  
KEVIN GARSTKA  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
69 W. Washington Street, Suite 1800  
Chicago, Illinois 60602  
(773) 590-7029  
[Kevin.Garstka@ilag.gov](mailto:Kevin.Garstka@ilag.gov)



2. Complainant filed the Complaint on September 27, 2024.
3. The parties have reached agreement on all outstanding issues in this matter.
4. This agreement is presented to the Board in a Stipulation and Proposal for Settlement.
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) (2022).

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) (2022).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

KWAME RAOUL  
Attorney General  
State of Illinois

BY: /s/ Kevin Garstka  
Kevin Garstka  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
69 W. Washington Street, Suite 1800  
Chicago, Illinois 60602  
(773)-590-7029  
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DATE: May 12, 2025



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 (2022), and charged, inter alia, with the duty of enforcing the Act.

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. Respondent is a secondary zinc processor that produces zinc and zinc alloys. Respondent's production consists of zinc alloy production and pure zinc processing.

5. Respondent conducts its operations in two manufacturing buildings, building 1001 and building 1031, both located next to one another on contiguous property under a single permit at 1031 East 103<sup>rd</sup> Street in Chicago, Cook County, Illinois ("Facility").

6. As of the date of filing of the Complaint, the Facility is located in an area of Environmental Justice ("EJ") concern as identified using the Illinois EPA EJ Start.

7. Respondent's Lifetime Operating Permit, initially issued on December 21, 2001 ("2001 LOP") authorized Respondent to operate the following equipment at the Facility: 16 Pot Furnaces (East, West, 1 through 8, 13, A, B, C, E, and F), two Rotary Sweat Furnaces 1 and 2, two Zinc Kettles North and South, one Zinc/Aluminum Reverberatory Furnace, two Crucible Furnaces, one Reverberatory Furnace Pure Zinc, one Zinc Reverberatory Furnace 1990-1, one Zinc Melt Furnace Reverberatory, one Sweat Furnace Reverberatory with Afterburner, MPH Furnace, and three Baghouses.

8. Respondent's operations at the Facility emit or are capable of emitting particulate matter ("PM") into the environment.

9. On March 17, 2008, a fire at the Facility damaged the following equipment, which

were scrapped and removed from operation: 16 Pot Furnaces (East, West, 1 through 8, 13, A, B, C, E, and F), two Rotary Sweat Furnaces 1 and 2, two Zinc Kettles North and South, one Zinc/Aluminum Reverberatory Furnace, one Reverberatory Furnace Pure Zinc, one Sweat Furnace Reverberatory with Afterburner, MPH Furnace, and three Baghouses.

10. In Spring of 2009, Respondent gradually began to replace some of the operating equipment damaged in the fire with new units.

**B. Allegations of Non-Compliance**

Complainant contends that the Respondent has violated the following provisions of the Act, Board Regulations, and Permit:

- Count I: Constructing an Emission Source without the Requisite Permit: Section 9(b) of the Act, 415 ILCS 5/9(b) (2022), and Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142.
- Count II: Operating an Emission Source without the Requisite Permit: Sections 9(b) and 9.12(a) of the Act, 415 ILCS 5/9(b) and 9.12(a) (2022), and Section 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.143.
- Count III: Failure to Timely Submit Complete and Accurate Annual Emissions Reports: Section 9(a) of the Act, 415 ILCS 5/9(a) (2022), Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Section 254.132(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a).
- Count IV: Failure to Provide Records at Inspection: Sections 9(a) and (b) of the Act, 415 ILCS 5/9(a) and (b) (2022), Section 201.301 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.301, and Condition 6 of the 2001 LOP 72090141.
- Count V: Lifetime Operating Permit Violations: Section 9(b) of the Act, 415 ILCS 5/9(b) (2022), and Conditions 5(a), 5(b), and 7 of the 2001 LOP 72090141.

**C. Non-Admission of Violations**

The 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, the 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. On January 31, 2020, Respondent submitted to the Illinois EPA corrected Annual Emissions Reports for calendar years 2009 through 2018, submitted payment for all outstanding construction and permit fees, and identified and updated a list of all equipment at the Facility.

2. On August 6, 2020, the Illinois EPA issued the revised Lifetime Operating Permit to Respondent. This permit identified a list of equipment operated at the Facility and equipment that had been removed.

3. On January 14, 2025, Illinois EPA issued a revised Lifetime Operating Permit to Respondent (LOP).

**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 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 (2022).

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

Section 33(c) of the Act, 415 ILCS 5/33(c) (2022), 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. Complainant contends human health and the environment were threatened and the Illinois EPA's information gathering responsibilities were 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. Obtaining a permit prior to construction at the Facility and complying with permit terms and conditions 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) (2022), 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 contends Respondent failed to obtain a permit before constructing an emission source; failed to obtain a permit before operating an emission source; failed to timely submit complete and accurate Annual Emissions Reports; failed to provide records at the time of inspection; and failed to comply with the terms and conditions of its Lifetime Operating Permit. The violations occurred over a period of more than ten years that began on or around 2009 and were resolved by 2020.

2. While Respondent was moderately responsive to the Illinois EPA once notified of the violations, Respondent was out of compliance for over a decade. After receiving notice of the

violations, Complainant contends that Respondent took more than three years to provide the Illinois EPA with all the required information for the issuance of a revised Lifetime Operating Permit. Respondent has since submitted all required documents, obtained necessary permits, and paid outstanding permit fees to come back into compliance with the Act, Board Regulations, and applicable federal regulations.

3. The civil penalty takes into account any economic benefit realized by the Respondent as a result of avoided or delayed compliance.

4. On November 9, 2016, the United States Environmental Protection Agency (“US EPA”) entered into a Consent Agreement and Final Order (“CAFO”) with Respondent addressing violations of Sections 201.142 and 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. 201.142 and 201.143, and the National Emission Standards for Hazardous Air Pollutants (“NESHAP”) for Secondary Nonferrous Metals Processing Area Sources, Subpart TTTTTT. The CAFO required Respondent to pay a \$25,000 civil penalty. The civil penalty required by the CAFO did not sufficiently deter Respondent from future noncompliance with the Act, Board Regulations and applicable federal regulations. Complainant has determined, based upon the specific facts of this matter, that a penalty of eighty-seven thousand five hundred dollars (\$87,500.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board Regulations.

5. To Complainants 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 includes a supplemental environmental project, which requires Respondent to purchase two new electric powered forklifts to replace two propane powered forklifts at the Facility, resulting in emissions reductions.

8. A Compliance Commitment Agreement was not at issue in this matter.

**V. TERMS OF SETTLEMENT**

**A. Penalty Payment**

The Respondent shall pay a civil penalty in the sum of eighty-seven thousand five hundred dollars (\$87,500.00) within thirty (30) days from the date 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.

3. The stipulated penalties shall be enforceable by the Complainant and shall be in addition to, and shall not preclude the use of, any other remedies or sanctions arising from the failure to comply with this Stipulation.

**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  
2520 W. Iles Ave.  
P.O. Box 19276  
Springfield, IL 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:

Kevin Garstka  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
69 W. Washington Street, Suite 1800  
Chicago, Illinois 60602  
[Kevin.Garstka@ilag.gov](mailto:Kevin.Garstka@ilag.gov)

**D. Future Compliance**

1. The Respondent shall timely submit complete and accurate Annual Emissions Reports and deviation reports.

2. The Respondent shall comply with the terms and conditions of its Lifetime Operating Permit 72090141.

3. In addition to any other authorities, the Illinois EPA, its employees and representatives, and the Attorney General, his 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, his employees and representatives, may take photographs, samples, and collect

information, as they deem necessary.

4. 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.

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

**E. Supplemental Environmental Project**

1. In order to promote the goals of the Act to restore, protect and enhance the quality of the environment, the Respondent shall perform the following supplemental environmental project ("SEP"). The settlement value of the SEP is thirty-seven thousand eight hundred forty-five dollars (\$37,845.00) and will offset penalties sought by the Complainant and the Illinois EPA in this matter. The Parties to the Stipulation agree that this SEP shall consist of the following:

a. The Respondent shall purchase two electric powered ("EV") forklifts to replace two of its seven propane powered forklifts at its facility (Serial Nos. 67295 and 16620), which will result in an estimated annual emissions reduction of 0.79 ton per year ("tpy") of nitrogen oxides, 0.73 tpy of carbon monoxide, 0.002 tpy of sulfur dioxide, 0.47 tpy of volatile organic matter, and 0.03 tpy of particulate matter at the Facility.

b. The Respondent shall scrap its two propane powered forklifts, Serial Nos. 67295 and 16620 for metal recycling.

2. The Respondent shall complete the SEP no later than 90 days from the entry of the Board's Order approving and accepting this Stipulation and, within 30 days thereafter, shall submit a project completion report to the contact persons identified in Section V.G for review and confirmation that the SEP was performed pursuant to this Stipulation. The project completion

report shall include:

a. A summary and documentation of all expenditures related to the SEP, including, but not limited to, receipts demonstrating the scrap metal recycling of the two propane powered forklifts, Serial Nos. 67295 and 16620, and proof of purchase of the two new EV forklifts.

b. The following certification by a responsible corporate official of the Respondent:

I certify under penalty of law that this document was prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted based on my inquiry of those persons directly responsible for gathering the information, and that the information submitted in or accompanying this notification of final compliance is to the best of my knowledge true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and or imprisonment for knowing violations.

3. In the event that the SEP cannot be completed, the Respondent shall pay the settlement value of the SEP (\$37,845.00) as an additional penalty pursuant to the procedures of Section V.C no later than the date by which the SEP should have been completed.

4. By signature on this Stipulation, the Respondent certifies that, as of the date of entry of this Stipulation, it is not required to perform or develop the foregoing SEP by any federal, state or local law or regulation, nor is it required to perform or develop the SEP by agreement or injunctive relief in any other case. The Respondent further certifies that it has not received, and is not presently negotiating to receive credit for, the SEP in any other enforcement action.

5. Any public statement, oral or written, in print, film or other media, made by the Respondent making reference to any SEP shall include the following language:

“This project was undertaken in connection with the settlement of an enforcement action taken by the Illinois Attorney General and the Illinois EPA for alleged violations of the Illinois Environmental Protection Act and regulations promulgated thereunder.”

**F. Release from Liability**

In consideration of the Respondent's payment of the \$87,500.00 penalty, its commitment to cease and desist as contained in Section V.D.5 above, its performance of the SEP as contained in Section V.E 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 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 September 27, 2024. 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.

**G. Enforcement and Modification 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.

**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. This Stipulation may be executed by the parties in one or more counterparts, all of which taken together shall constitute one and the same instrument.

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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  
KWAME RAOUL  
Attorney General  
State of Illinois

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

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

JAMES M. JENNINGS, Acting Director  
Illinois Environmental Protection Agency

BY:   
STEPHEN J. SYLVESTER, Chief  
Environmental Bureau  
Assistant Attorney General

BY:   
ANDREW B. ARMSTRONG  
Chief Legal Counsel

DATE: 5/8/25

DATE: 05/07/2025

RESPONDENT  
IMPERIAL ZINC CORP.

BY:   
JAY SANDOVER

ITS: CEO

DATE: 5/5/25