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STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
V.)
)
QC FINISHERS, INC., an Illinois)
corporation,)
)
)
Respondent.)

PCB 01-07
(Enforcement-Air)

NOTICE OF FILING

TO: See Attached Service List

PLEASE TAKE NOTICE that on the 23rd day of August, 2004, I filed with the Clerk of the Illinois Pollution Control Board a Stipulation and Proposal for Settlement and a Motion to Request Relief From Hearing Requirement, copies of which are attached hereto and are hereby served upon you.

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN
Attorney General of the
State of Illinois

By: Paula B. Wheeler

PAULA BECKER WHEELER
Assistant Attorney General
Environmental Bureau
188 West Randolph Street, 20th Fl.
Chicago, IL 60601
312/814-1511

DATE: August 23, 2004

THIS FILING IS SUBMITTED ON RECYCLED PAPER

SERVICE LIST

Ms. Heidi E. Hanson
Law Office of H.E. Hanson, Esq. P.C.
4721 Franklin Ave., Suite 1500
Western Springs, Il 60558-1720

Bradley Halloran
Chief Hearing Officer
Illinois Pollution Control Board
100 West Randolph Street, 11th Floor
Chicago, IL 60601

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Pollution Control Board

PCB 01-07
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**MOTION TO REQUEST RELIEF
FROM HEARING REQUIREMENT**

NOW COMES the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and requests relief from the hearing requirement in the above-captioned matter. In support thereof, the Complainant states as follows:

1. On July 14, 2000, a Complaint was filed with the Pollution Control Board ("Board") in this matter. On August 23, 2004, a Stipulation and Proposal for Settlement was filed with the Board.

2. Section 31(c)(2) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(c)(2), effective August 1, 1996, allows the parties in certain enforcement cases to request relief from the mandatory hearing requirement where the parties have submitted to the Board a stipulation and proposal for settlement. Section 31(c)(2) provides:

Notwithstanding the provisions of subdivision (1) of this subsection (c), whenever a complaint has been filed on behalf of the Agency or by the People of the State of Illinois, the parties may file with the Board a stipulation and proposal for settlement accompanied by a request for relief from the requirement of a hearing pursuant to subdivision (1). Unless the Board, in its discretion, concludes that a hearing will be held, the Board shall cause notice of the

stipulation, proposal and request for relief to be published and sent in the same manner as is required for hearing pursuant to subdivision (1) of this subsection. The notice shall include a statement that any person may file a written demand for hearing within 21 days after receiving the notice. If any person files a timely written demand for hearing, the Board shall deny the request for relief from a hearing and shall hold a hearing in accordance with the provisions of subdivision (1).

3. No hearing is currently scheduled in the instant case.

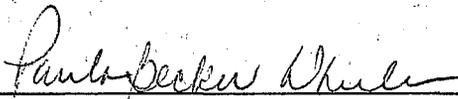
4. The Complainant requests the relief conferred by Section 31(c)(2) of the Act.

WHEREFORE, the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, requests relief from the requirement of a hearing pursuant to 415 ILCS 5/31(c)(2)(2002).

Respectfully submitted,

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

By: _____



PAULA BECKER WHEELER
Assistant Attorney General

Environmental Bureau
188 West Randolph Street, 20th Fl.
Chicago, IL 60601
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Pollution Control Board
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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, at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), and respondent, QC FINISHERS, INC. ("QC FINISHERS"), an Illinois corporation, by its attorney, H.E. Hanson, Esq., P.C., do hereby agree to this Stipulation and Proposal for Settlement ("Stipulation"). 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 further stipulate that this statement of facts is made and agreed upon for purposes of settlement only and that neither the fact that a party has entered into this Stipulation, nor any of the facts stipulated herein, shall be introduced into evidence in this or any other proceeding except to enforce the terms of this agreement. Notwithstanding the previous sentence, 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 of the Illinois Environmental Protection Act ("Act") for purposes of Sections 39(i) and 42(h) of the Act, 415 ILCS 5/39(i) and 5/42(h) (2002). 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. If the Board approves and enters this Stipulation, Respondent agrees to be bound by the Stipulation and not to contest its validity in any subsequent proceeding to implement or enforce its terms.

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.* (2002).

II.
AUTHORIZATION

The undersigned representatives certify that they are fully authorized to enter into the terms and conditions of this Stipulation and Proposal for Settlement, that they accept the jurisdiction of the Illinois Pollution Control Board and that they have the authority to legally bind the entity for which they have signed below.

III.
APPLICABILITY

This Stipulation and Proposal for Settlement shall apply to and be binding upon the said entities, and each of them, and on any officer, director, agent, employee or servant of Respondent, as well as 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 officers, directors, agents, servants, or employees of respondent to take such action as shall be required to comply with the provisions of this settlement.

IV.
STATEMENT OF FACTS

A. Parties

1. The Attorney General of the State of Illinois brought this action on her own motion, as well as at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), pursuant to the statutory authority vested in her under Section 31 of the Act, 415 ILCS 5/31 (2002).

2. Illinois EPA is an agency of the State of Illinois created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2002), and is charged, *inter alia*, with the duty of enforcing the Act.

3. Respondent, QC FINISHERS, is an Illinois corporation, duly authorized to transact business in the State of Illinois.

B. Facility Description

Respondent owns and operates a business that acts as a job shop coater of miscellaneous metal and plastic parts for various industries. The coating operations are located at 10228-10344 Franklin Avenue, Franklin Park, Cook County, Illinois ("facility"). The facility currently includes six paint spray booths, control equipment, three drying ovens, sanding and polishing units, a solvent distiller and a silk screening operation. Respondent is currently in compliance.

C. Noncompliance

1. Violations Alleged in the Complaint

The Complaint has alleged the following violations of the Act and Illinois Pollution Control Board ("Board") regulations against the Respondent:

COUNT I: CONSTRUCTION WITHOUT A STATE PERMIT, violations of Sections 9(b), of the Act, 415 ILCS 5/9(b) (2000) and Section 201.142 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.142;

COUNT II: OPERATING WITHOUT A STATE PERMIT, violations of Section 9(b) of the Act, 415 ILCS 5/9(b) (2000), and Section 201.143 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.143;

COUNT III: FAILURE TO COMPLY WITH EMISSION LIMITATIONS, violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2000), and Section 218.204 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 218.204;

COUNT IV: FAILURE TO TIMELY DEVELOP AND SUBMIT FUGITIVE MATTER EMISSION PROGRAM, violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2000), and Section 212.309 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 212.309;

COUNT V: FAILURE TO TIMELY FILE AN ERMS APPLICATION, violations

of Section 9(a) of the Act, 415 ILCS 5/9(a) (2000), and Section 205.310 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 205.310;

COUNT VI: OPERATING WITHOUT A CAAPP PERMIT, violations of Sections 9 and 39.5 of the Act, 415 ILCS 5/9, 5/39.5(2000), and Section 270.201 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 270.201;

COUNT VII: MAKING A MAJOR MODIFICATION WITHOUT A PERMIT, violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2000), and Section 203.201 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 203.201;

2. Additional Alleged Violations

a. On November 18, 2003, the Illinois EPA conducted an inspection of the facility.

b. On December 12, 2003, the Illinois EPA issued a Violation Notice letter to the Respondent informing it of the results of the inspection. The letter further advised Respondent that it was in apparent violation of the following environmental statutes and regulations:

i. Section 9(b) of the Act: violations of conditions 10(b) (i) and 10(b) (iv) of its FESOP 99030080; and

ii. Section 9(a) of the Act and 35 Ill. Adm. Code 218.204(j) (4)B: violations of emissions limitations set forth in 218, Subpart F.

c. On January 8, 2004, Respondent sent a letter to the Illinois EPA, informing the Agency of possible exceedences in violation of Condition 6 of its FESOP 99030080.

d. From July 1991 through December 2003, Respondent, at various times, based on the allegations as described in this

Section IV, was in apparent violation of various reporting and recordkeeping requirements of the Board's Air Pollution regulations, 35 Ill. Adm. Code Subtitle B, specifically, failure to report emissions, failure to report permit noncompliances, failure to report noncompliances with the Board Air Pollution regulations, and failure to file applications and reports. It is the parties' intent that these alleged violations of 35 Ill. Adm. Code Subtitle B, be resolved through this Stipulation and Proposal for Settlement.

D. Response to allegations

Respondent denies all of the alleged violations in the Complaint which were not specifically admitted in its Answer, and neither admits nor denies all of the alleged violations described in SECTION IV.C.2. of this Stipulation.

Respondent further states that it began operation and operated for some time at a usage rate of less than five thousand gallons per year of coatings, at which level it was exempt from the permitting requirements. Respondent was unaware of the significance of exceeding five thousand gallons. Respondent represents it made several attempts to learn about the requirements applicable to its operation, but that its queries were made to Cook County Environmental Control which provided incorrect information. Respondent also asserts it was unaware of the emission limitations of Section 218.204, 35 Ill. Adm. Code

218.204, which were applicable during its operations and of the requirements of Parts 203 and 205 and the CAAPP program. No National Ambient Air Quality Standards were exceeded in the vicinity of Respondent's operation. Respondent specifically denies all allegations relating to Count VII and New Source Review. An inspection on November 18, 2003, and a subsequent internal audit of the facility discovered alleged permit noncompliances including failure to keep certain records in the form and manner required by the permit and the use of high solvent paint for touch up purposes.

V.

IMPACT ON THE PUBLIC RESULTING FROM NONCOMPLIANCE

Section 33(c) of the Act, 415 ILCS 5/33(c) (2002), 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.

ANALYSIS:

The parties mutually state as follows:

1. *Character and Degree of Injury:*

The impact to the public from the alleged violations of the Act would be the actual and threatened air pollution into the environment of the State of Illinois. The parties acknowledge the programmatic significance of the air pollution control regulations including the permit program to the State of Illinois and agree that the failure to obtain and comply with permit requirements would constitute an injury.

2. *Social and Economic Benefit:*

The parties agree that operation of Respondent's business is of social and economic benefit provided it operates in conformance with the requirements of the Act and pertinent Board regulations.

3. *Suitability to the Area:*

Operation of Respondent's business at the Site is suitable to the area.

4. *Technical Practicability:*

Obtaining all necessary permits prior to initiating construction or operation, employing methods to prevent excessive emissions of air contaminants, and properly maintaining the requisite records is technically practicable and economically

reasonable.

5. *Subsequent Compliance:*

To the best of the Illinois EPA's information, Respondent is currently in compliance with air pollution laws and regulations.

VI.

CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h), effective 1/1/04, 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 benefit 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; and
6. whether the respondent voluntarily self-disclosed, in accordance with subsection (i) of this Section, the non-compliance to the Agency; and

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.

ANALYSIS:

1. *Duration and Gravity of the Violation:*

The violations that are the subject of the Complaint and that are stated in Section IV.C.2 of this Stipulation are alleged to have existed for varying lengths of time.

2. *Diligence of Respondent:*

The Respondent has completed construction of control equipment, and obtained all relevant permits, and is operating in compliance with its permit and with relevant laws and regulations. The Respondent has been responsive to the Illinois EPA and the Attorney General's Office.

3. *Economic Benefit of Noncompliance:*

The Respondent did receive an economic benefit from the alleged noncompliance through profits from the use of noncompliant coatings. However, it did not receive an economic benefit as determined by the lowest cost alternative for achieving compliance. The civil penalty contained herein recovers any economic benefit obtained by Respondent from the alleged noncompliance.

4. *Deterrence:*

A penalty of One Hundred Forty-Nine Thousand Six Hundred Dollars (\$149,600.00) against the Respondent will deter future noncompliance by the Respondent and others.

5. *Compliance History:*

The Respondent has no previously adjudicated violations of the Act and Board Regulations.

6. *Self-Disclosure:*

The parties agree that Respondent did not self-disclose the alleged violations pursuant to 42(h)(6).

7. *Supplemental Environmental Projects:*

No supplemental environmental project is contemplated as part of the settlement.

VII.

TERMS OF SETTLEMENT

1. Respondent denies all of the alleged violations in the Complaint which were not specifically admitted in its Answer, and neither admits nor denies all of the alleged violations described in SECTION IV.C.2. of this Stipulation.

2. The Respondent shall pay a total penalty of the sum of ONE HUNDRED FORTY-NINE THOUSAND SIX HUNDRED DOLLARS (\$149,600.00), payable as follows:

a. The payments shall be made in three installments as stated below, totaling the \$149,600.00. The payments are due on the following dates:

i. The first installment of \$49,600.00 shall be

due 30 days after the date on which the Board adopts a final order approving this Stipulation and Proposal for Settlement.

ii. The second installment of \$50,000.00 shall be due twelve (12) months after the date on which the Board adopts a final order approving the Stipulation and Proposal for Settlement.

iii. The third and final payment in the amount of \$50,000.00 shall be due twenty-four (24) months after the date on which the Board adopts a final order approving this Stipulation and Proposal for Settlement.

b. The payments shall be made by certified check or money order, payable to the Illinois EPA, designated for deposit into the Environmental Protection Trust Fund ("EPTF"), and shall be sent by certified mail, return receipt requested to:

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

3. Respondent's Federal Employer's Identification Number ("FEIN") number 36-3386943, must be on the certified check or money order. For issues relating to the payment of the penalty, the Respondent may be reached at the following address:

Mr. Charles Stitzel
President, QC FINISHERS, Inc.
10244 Franklin Avenue
Franklin Park, Illinois 60131

A copy of the certified check or money order, and all related correspondence, shall be sent by first class mail to:

Paula Becker Wheeler
Assistant Attorney General
Environmental Bureau
188 West Randolph, 20th Floor
Chicago, Illinois 60601

The complainant may be contacted at the above address.

4. If the Respondent fails to make any payment specified within Section VII.2.a. of this Stipulation Order on or before the date upon which the payment is due, the Respondent will be in default and the remaining unpaid balance of the penalty, plus any accrued interest, shall be due and owing immediately.

5. In the event of default, the Complainant shall be entitled to reasonable costs of collection, including reasonable attorney's fees.

6. Said penalty amount is not inclusive of avoided permit fees by Respondent, which fees total \$400.00. Said fees must be paid within 30 days after the date on which the Board adopts a final order approving this Stipulation and Proposal for Settlement. Said fees are to be paid by certified check or money order, payable to CAAPP 091 Fund, and mailed to the following address:

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

VIII.

INTEREST ON PENALTIES

1. Pursuant to Section 42(g) of the Act, 415 ILCS

5/42(g) (2002), interest shall accrue on any penalty amount owed by the Respondent not paid within the time prescribed herein, at the maximum allowable rate, as set forth in Section 1003(a) of the Illinois Income Tax Act, 35 ILCS 5/1003(a) (2002).

2. Interest on unpaid penalties shall begin to accrue from the date the penalty is due and continue to accrue to the date payment is received by the Illinois EPA.

3. 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.

4. All interest on penalties owed the Complainant shall be paid in the same manner as set forth in Sections VII.2.B and VII.3 above.

IX.
RIGHT OF ENTRY

In addition to their other authority, the Illinois EPA, its employees and representatives, and the Attorney General, her agents 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 carrying out inspections. 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.

X.

CEASE AND DESIST

Respondent shall cease and desist from future violations of the Act and Board regulations, including but not limited to, those sections of the Act and Board regulations that were the subject matter of the complaint as outlined in Section IV.C. of this Stipulation and Proposal for Settlement.

XI.

COMPLIANCE WITH OTHER LAWS AND REGULATIONS

This Stipulation and Proposal for Settlement in no way affects Respondent's responsibility to comply with any other federal, state, or local regulations, including but not limited to the Act and Board regulations.

XII.

RELEASE FROM LIABILITY

In consideration of the Respondent's payment as described in paragraph VII above, and the Respondent's commitment to refrain from future violations of the Act and Board regulations, the Complainant releases, waives and discharges Respondent and its owners, officers, directors, employees, agents, successors and assigns from any further liability or penalties for violations which were the subject matter of the Complaint herein, and as described in SECTION IV.C.2 of this Stipulation, upon the payment of all monies owed. 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.

XIII.

EXECUTION OF DOCUMENT

This Stipulation shall become effective only when executed by all parties and adopted by the Illinois Pollution Control Board.

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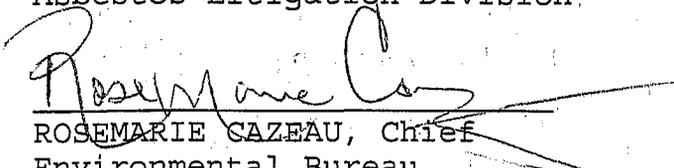
WHEREFORE, Complainant and Respondent request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

AGREED:

FOR THE COMPLAINANT:

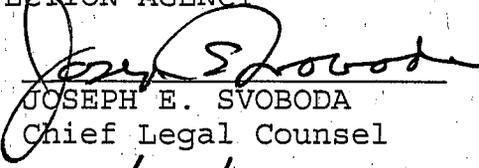
LISA MADIGAN
Attorney General of
the State of Illinois

Matthew J. Dunn, Chief
Environmental Enforcement/
Asbestos Litigation Division.


ROSEMARIE GAZEAU, Chief
Environmental Bureau
Assistant Attorney General

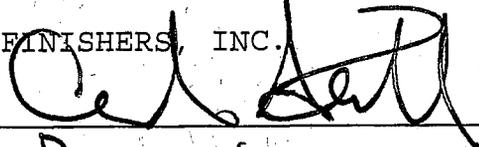
Dated: 7/27/04

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: 
JOSEPH E. SVOBODA
Chief Legal Counsel

Dated: 7/22/04

QC FINISHERS, INC.

By: 

Its: PRESIDENT

Dated: 8/18/04

CERTIFICATE OF SERVICE

I, PAULA BECKER WHEELER, an Assistant Attorney General in this case, do certify that I caused to be served this 23rd day of August, 2004, the foregoing Stipulation and Proposal for Settlement, Motion to Request Relief From Hearing Requirement and Notice of Filing upon the persons listed on said Notice by depositing same in an envelope, first class postage prepaid, with the United States Postal Service at 188 West Randolph Street, Chicago, Illinois, at or before the hour of 5:00 p.m.



PAULA BECKER WHEELER