

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS, )  
 )  
 Complainant, )  
 )  
 -vs- )  
 )  
 )  
 PRECISION TWIST DRILL CO., )  
 a Delaware corporation, )  
 )  
 Respondent. )  
 )

No. 05 PCB - 207  
 (Enforcement - Air)

To: See Attached Service List.

**NOTICE OF FILING**

TO: See Attached Service List  
(VIA ELECTRONIC FILING)

PLEASE TAKE NOTICE that today I have filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the following Stipulation and Proposal for Settlement, and Motion to Request Relief from Hearing Requirement, copies of which are attached and hereby served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN  
Attorney General  
State of Illinois

BY: *Paula Becker Wheeler*  
 Paula Becker Wheeler  
 Assistant Attorney General  
 Environmental Bureau  
 188 W. Randolph St., 20<sup>th</sup> Floor  
 Chicago, Illinois 60601 •  
 312-814-1511

DATE: January 12, 2006

**THIS FILING IS SUBMITTED ON RECYCLED PAPER**

**SERVICE LIST**

Mr. John J. McAleese III  
Counselor at Law  
Morgan, Lewis & Bockius  
1701Market Street  
Philadelphia, PA 19103-2921

Mr. Bradley Halloran  
Hearing Officer  
Illinois Pollution Control Board  
100 West Randolph Street  
Suite 11-500  
Chicago, IL. 60601



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), (2004).

Respectfully submitted,

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 W. Randolph St., 20th Fl.  
Chicago, Illinois 60601  
(312) 814-1511

Dated: January 12, 2006

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
	)	PCB 05-207
v.	)	
	)	(Enforcement - Air)
	)	
PRECISION TWIST DRILL CO., a	)	
Delaware corporation,	)	
	)	
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 PRECISION TWIST DRILL CO., ("Respondent" or "Precision"), 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. 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 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 any other proceeding except as otherwise provided herein. If the Board approves and enters this Stipulation, Respondent agrees to be bound by the Stipulation and Board Order and not to contest their validity in any subsequent proceeding to implement or enforce their terms.

### **I. JURISDICTION**

The Board has jurisdiction of the subject matter herein and of the parties consenting hereto pursuant to the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/1 et seq. (2004).

### **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 to legally bind them to it.

### **III. STATEMENT OF FACTS**

#### **A. Parties**

1. On June 7, 2005, a Complaint was 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(2004), 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 (2004).

3. At all times relevant to the Complaint, Respondent was and is a Delaware corporation that is authorized to transact business in the State of Illinois.

**B. Facility Description**

1. At all times relevant to the Complaint, Respondent owned and operated a drill bit manufacturing facility located at 301 Industrial Drive, Crystal Lake, McHenry County, Illinois (the "facility").

2. Emission sources at the facility include a drill bit stamping process, rust inhibitor coating operations, and two cold cleaning degreasers.

**C. Allegations of Non-Compliance**

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

- Count I: Failure to Obtain a CAAPP Permit and Pay CAAPP Permit Fees, in violation of Section 39.5(6) (b) of the Act, 415 ILCS 5/39.5(6) (b) (2002).
- Count II: Emission Limitation Violations, in violation of Section 9(a) of the Act, 415 ILCS 5/9(a) (2002), and 35 Ill. Adm. Code 218.204(j) (4).
- Count III: Failure to Keep Records and Submit Reports, in violation of Section 9(a) of the Act, 415 ILCS 5/9(a) (2002) and 35 Ill. Adm. Code 218.211(c).

**D. 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 III.C herein, and this Stipulation shall not be interpreted as including such admission.

**E. Compliance Activities**

On September 2, 2004, Respondent submitted an application for a Federally Enforceable State Operating Permit ("FESOP") to the Illinois EPA. Further, on May 23, 2005, Respondent began using a compliant coating in its rust inhibiting operations. It has also begun keeping all required records.

**IV. APPLICABILITY**

This Stipulation shall apply to and be binding upon the Complainant and the Respondent, and any officer, director, agent, or employee of the Respondent, as well as any successors or assigns of the Respondent. 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.

**V. COMPLIANCE WITH OTHER LAWS AND REGULATIONS**

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, 35 Ill. Adm. Code, Subtitles A through H.

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

Section 33(c) of the Act, 415 ILCS 5/33(c) (2004), 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 state the following:

1. Complainant alleges that human health and the environment were threatened and the Illinois EPA's information gathering responsibilities hindered by the Respondent's alleged violations.
2. There is social and economic benefit to the facility.
3. Operation of the facility was suitable for the area in which it occurred.
4. Obtaining a permit prior to operation of the facility, complying with its terms, and complying with the Board's requirements for coating operations, including recordkeeping and reporting, is both technically practicable and economically reasonable.
5. Respondent has subsequently complied with the Act and the Board Regulations, by filing an application for a FESOP in September, 2004, using compliant coatings in its operations, and keeping required records. The permit application remains pending with the Illinois EPA.

#### VII. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h) (2004), 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; 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.

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

1. Complainant alleges that Respondent failed to obtain a CAAPP permit within twelve months of the initiation of the operation of the source, and violated the Board's regulations for

coating operations. The alleged violations began on or around 2002, and were individually resolved at various times.

2. Complainant has determined that Respondent was diligent in attempting to come back into compliance with the Act, Board regulations and applicable federal regulations, once the Illinois EPA notified it of its noncompliance.

3. The economic benefit to the Respondent is Five Hundred Dollars in avoided air pollution site fees. The parties stipulate that the payment amount agreed to herein is greater than the total economic benefit arising from delayed and/or avoided costs, which would be nominal.

4. Complainant has determined, based upon the specific facts of this matter, that a penalty of Thirty Thousand Five Hundred Dollars (\$30,500.00) 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 one previously adjudicated case alleging violations of the Act, concerning groundwater contamination when the Respondent's former owner abandoned an underground coolant tank that leaked trichloroethylene. Said Consent Order was entered October 27, 2005, case number 03 CH 521, in McHenry County, Illinois.

6. Self-disclosure is not at issue in this matter.

7. The settlement of this matter does not include a supplemental environmental project.

#### VIII. TERMS OF SETTLEMENT

##### A. Penalty Payment

1. The Respondent shall pay a civil penalty in the sum of Thirty Thousand Five Hundred Dollars (\$30,500.00) in the manner prescribed below within thirty (30) days from the date the Board adopts and accepts this Stipulation. The Respondent stipulates that payment has been tendered to Respondent's attorney of record in this matter in a form acceptable to that attorney. Further, Respondent stipulates that said attorney has been directed to make the penalty payment on behalf of Respondent within thirty (30) days from the date the Board adopts and accepts this Stipulation, in a manner described below. The penalty amount of \$30,000.00 described in this Stipulation shall be paid by certified check, money order or electronic funds transfer payable to the Illinois EPA, designated to the Illinois Environmental Protection Trust Fund. The penalty amount of \$500.00 shall be paid by certified check, money order or electronic funds transfer payable to the Illinois EPA, designated to the Illinois Environmental Permit and Inspection Fund. Both payments shall be submitted to:

Illinois Environmental Protection Agency  
Fiscal Services Section  
1021 North Grand Avenue East  
P.O. Box 19276

Springfield, IL 62794-9276

The name and number of the case and Respondent's Federal Employer Identification Number (FEIN), 36-2229428, shall appear on the checks. A copy of the certified checks, money orders or records of electronic funds transfer and any transmittal letters shall be sent to:

Paula Becker Wheeler  
Assistant Attorney General  
Environmental Bureau  
188 W. Randolph St., 20<sup>th</sup> Floor  
Chicago, Illinois 60601

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

2. Pursuant to Section 42(g) of the Act, 415 ILCS 5/42(g) (2004), interest shall accrue on any payment not paid within the time period prescribed above at the maximum rate allowable under Section 1003(a) of the Illinois Income Tax Act, 35 ILCS 5/1003 (2004). Interest on any unpaid payment shall begin to accrue from the date the payment is due and continue to accrue until the date payment is received. When partial payment(s) are made, such partial payment shall be first applied to any interest on unpaid payment then due and owing. All interest on payment owed shall be paid by certified check, money order or electronic funds

transfer, payable to the Illinois EPA, designated to the Illinois Environmental Protection Trust Fund and delivered to the address and in the manner described above.

3. For purposes of payment and collection, Respondent may be reached at the following address:

Precision Twist Drill Company  
301 Industrial Avenue  
Crystal Lake, IL 60012  
Att'n: David Thompson

4. In the event of default of this Section VIII.A, the Complainant shall be entitled to all available relief including, but not limited to, reasonable costs of collection and reasonable attorney's fees.

**B. Future Compliance**

Respondent shall immediately comply with the Illinois Environmental Protection Act, 415 ILCS 5/1 et seq. (2004), applicable Board regulations, and further, with the terms and conditions of its FESOP permit once issued.

**C. Future Use**

Notwithstanding any other language in this Stipulation to the contrary, and in consideration of the mutual promises and conditions contained in this Stipulation, including the Release from Liability contained in Section VIII.E, below, the Respondent hereby agrees that 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 promulgated thereunder for all violations alleged in the Complaint in this matter, for purposes of Section 39(a) and (i) and/or 42(h) of the Act, 415 ILCS 5/39(a) and(i) and/or 5/42(h) (2004). Further, Respondent agrees to waive any rights to contest, in any subsequent enforcement action or permit proceeding, any allegations that these alleged violations were adjudicated.

**D. Cease and Desist**

The Respondent shall cease and desist from future violations of the Act and Board Regulations that were the subject matter of the Complaint as outlined in Section III.C ("Allegations of Non-Compliance") of this Stipulation.

**E. Release from Liability**

In consideration of the Respondent's payment of the \$30,500.00 penalty and any specified costs and accrued interest, completion of all activities required hereunder, its commitment to Cease and Desist as contained in Section VIII.D and upon the Pollution Control Board's acceptance and approval of the terms of this Stipulation and Proposal for Settlement, the Complainant releases, waives and discharges the Respondent from any further liability or penalties for 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 June 7, 2005. 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 or the Illinois EPA may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315 (2004), or entity other than the Respondent.

**F. Right of Entry**

In addition to any 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.

**G. Enforcement of Board Order**

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

2. Respondent agrees that notice of any subsequent proceeding to enforce the Board Order approving and accepting this Stipulation and Proposal for Settlement may be made by mail and waives any requirement of service of process.

3. The parties agree that, if the Board does not approve and accept this Stipulation and Proposal for Settlement, then neither party is bound by the terms herein.

4. It is the intent of the Complainant and Respondent that the provisions of this Stipulation and Proposal for Settlement and any Board Order accepting and approving such shall be severable, and should any provision be declared by a court of

competent jurisdiction to be inconsistent with state or federal law, and therefore unenforceable, the remaining clauses shall remain in full force and effect.

**H. Execution of Document**

This document shall become effective only executed by all parties. This document by be executed by the parties in one or more counterparts, all of which taken together, shall constitute one and the same instrument.

(THE REST OF THIS PAGE IS LEFT INTENTIONALLY BLANK)

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

PEOPLE OF THE STATE OF ILLINOIS,

LISA MADIGAN  
Attorney General  
State of Illinois

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

BY: \_\_\_\_\_  
ROSEMARIE CAZEAU, Chief  
Environmental Bureau  
Assistant Attorney General

DATE: \_\_\_\_\_

ILLINOIS ENVIRONMENTAL PROTECTION  
AGENCY

BY: \_\_\_\_\_  
ROBERT A. MESSINA  
Chief Legal Counsel

DATE: \_\_\_\_\_

PRECISION TWIST DRILL CO.

BY: *[Signature]*

Name: *Jan Hainsworth*

DATE: *12-13-05*

Title: *General Manager*

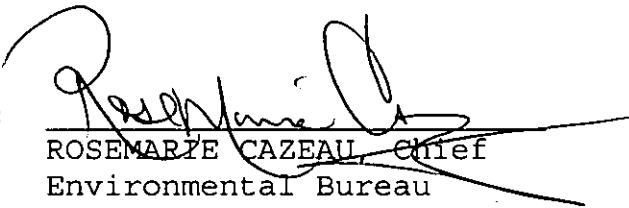
*[Signature]*  
JOHN A GODFREY  
PRESIDENT.

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

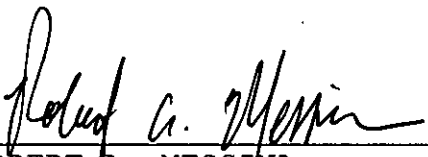
PEOPLE OF THE STATE OF ILLINOIS,

LISA MADIGAN  
Attorney General  
State of Illinois

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

BY:  DATE: 1/9/06  
ROSEMARIE CAZEAU, Chief  
Environmental Bureau  
Assistant Attorney General

ILLINOIS ENVIRONMENTAL PROTECTION  
AGENCY

BY:  DATE: 1/4/06  
ROBERT A. MESSINA  
Chief Legal Counsel

PRECISION TWIST DRILL CO.

BY: \_\_\_\_\_  
Name: \_\_\_\_\_ DATE: \_\_\_\_\_  
Title: \_\_\_\_\_

**CERTIFICATE OF SERVICE**

I, PAULA BECKER WHEELER, an Assistant Attorney General in this case, do certify that I caused to be served this 12th day of January, 2006, the foregoing Stipulation and Proposal for Settlement, Motion for Request for Relief from Hearing Requirement and Notice of Filing upon the person listed on said Notice by depositing same in an envelope, by first class postage and certified mail 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

January 12, 2006