

ORIGINAL

RECEIVED
CLERK'S OFFICE
JUL - 7 1997
STATE OF ILLINOIS
POLLUTION CONTROL BOARD

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
-vs-)	PCB No. 97-110
)	(Enforcement)
METO-GRAFICS, INC.,)	
an Illinois corporation,)	
)	
Respondent.)	

NOTICE OF FILING

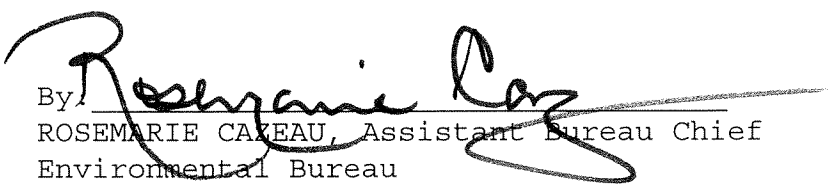
TO: Jeffrey R. Diver, Esq.	June C. Edvenson
The Jeff Diver Group	Hearing Officer
45 South Park Blvd., Suite 270	Hearing Coordinator
Glen Ellyn, IL 60137-6281	Illinois Pollution Control Bd.
	100 W. Randolph St., 11-500
	Chicago, IL 60601

PLEASE TAKE NOTICE that we have today filed with the Illinois Pollution Control Board Complainant's Stipulation and Proposal for Settlement, Agreed Motion to Request Relief from the Hearing Requirement, Notice of Filing, and Certificate of Service, on behalf of the People of the State of Illinois, a copy of which is attached and herewith served upon you.

Respectfully Submitted,

PEOPLE OF THE STATE OF ILLINOIS

JAMES E. RYAN
Attorney General
State of Illinois

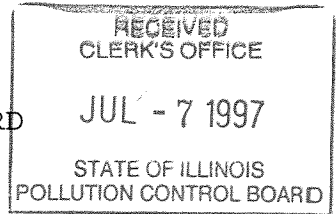
By: 

ROSEMARIE CAIXEAU, Assistant Bureau Chief
Environmental Bureau
Assistant Attorney General
100 West Randolph Street, 11th Flr.
Chicago, IL 60601 (312) 814-3094

DATED: July 7, 1997

C:\WPWIN60\WPDOCS\ROSEMARI\METOGRAF\MOT.4

THIS FILING IS SUBMITTED ON RECYCLED PAPER



BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 -vs-) PCB No. 97-110
) (Enforcement)
 METO-GRAFICS, INC.,)
 an Illinois corporation,)
)
 Respondent.)

AGREED MOTION TO REQUEST RELIEF FROM THE HEARING REQUIREMENT

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by JAMES E. RYAN, Attorney General of the State of Illinois, and Respondent, METO-GRAFICS, Inc., an Illinois corporation and request relief from the hearing requirement in the above captioned matter.

In support, the parties state as follows:

1. Today, the parties in the above captioned matter filed a Stipulation and Proposal for Settlement with the Board.
2. Section 31(a)(2) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(a)(2) (1994), provides:

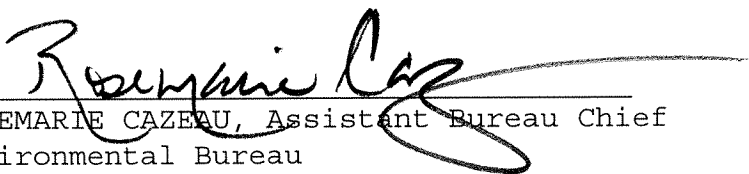
Notwithstanding the provisions of subdivision (1) of this subsection (a), whenever a complaint has been filed on behalf of the Agency or by the People of the State of Illinois, the parties may file with the Board a stipulation and proposal for settlement accompanied by a request for relief from the requirements of a hearing pursuant to subdivision (1)

3. The parties hereto have filed a Stipulation and Proposal for Settlement and agree that a formal hearing is not necessary to conclude this matter and wish to avail themselves of Section 31(a)(2) of the Act.

WHEREFORE, Complainant and Respondent request relief from the hearing requirement pursuant to Section 31(a)(2) of the Act.

Respectfully submitted,

JAMES E. RYAN
Attorney General
State of Illinois

By: 
ROSEMARIE CAZEAU, Assistant Bureau Chief
Environmental Bureau
Assistant Attorney General
100 West Randolph Street, 11th Floor
Chicago, IL 60601
(312) 814-3094

C:\WPWIN60\WPDOCS\ROSEMARI\METOGRAF\MOT.4

RECEIVED
CLERK'S OFFICE
JUL - 7 1997
STATE OF ILLINOIS
POLLUTION CONTROL BOARD

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 -vs-) PCB No. 97-110
) (Enforcement)
 METO-GRAFICS, INC., an Illinois,)
 corporation,)
)
 Respondent.)

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 ("Agency"), and Respondent, METO-GRAFICS, INC., an Illinois corporation, by its attorneys, THE JEFF DIVER GROUP, 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 by Complainant 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.

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 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.

SETTLEMENT OF FACTS

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

2. Meto-Grafics, Inc., was and is an Illinois corporation, ("Respondent"), which manufactures plastic and metal name plates and is located at 169 Northwest Highway, Cary, Illinois ("the site"). Respondent utilizes ferric chloride and lacquer thinner in its name plates and other metal products manufacturing process, resulting in the generation of waste ferric chloride and waste lacquer thinner.

3. Section 21(f) of the Act, 415 ILCS 5/21(f) (1994), provides as follows:

No person shall:

- f. Conduct any hazardous waste-storage, hazardous waste-treatment or hazardous waste-storage operation:
 - 1. Without a RCRA permit for the site issued by the Agency under subsection (d) of Section 39 of this Act, or in violation of any condition imposed by such permit, including periodic reports and full access to adequate records and the inspection of facilities, as may be necessary to assure compliance with this Act and with regulations and standards adopted thereunder, or
 - 2. In violation of any regulations or standards adopted by the Board under this Act;

4. Section 722.134 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 703.121, titled, Accumulation Time, provides in pertinent part, as follows:

a) Except as provided in subsections (d), (e) or (f), a generator is exempt from all the requirements in 35 Ill. Adm. Code Subparts G and H, except for 35 Ill. Adm. Code 721.211 and 725.214 and may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that:

1) The waste is placed:

A) In containers and the generator complies with 35 Ill. Adm. Code 725, Subpart I . . .

2) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;

3) While being accumulated on-site, each container and tank is labeled or marked clearly with the words, "Hazardous Waste", and

4) The generator complies with the requirements for owners and operators in 35 Ill. Adm. Code 725 Subparts C and D, with 35 Ill. Adm. Code 725.116 and 728.107(a) (4) . . .

* * *

d) A generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month may accumulate hazardous waste on-site for 180 days or less without a permit or without having interim status provided that:

1) The quantity of waste accumulated on-site never exceeds 6000 kilograms;

2) The generator complies with the requirements of 35 Ill. Adm. Code 725. Subpart I, except the generator need not comply with 35 Ill. Adm. Code 725.276;

- 3) The generator complies with the requirements of 35 Ill. Adm. Code 725.301;
- 4) The generator complies with the requirements of subsections (a)(2) and (a)(3) and the requirements of 35 Ill. Adm Code 725. Subpart C; and
- 5) The generator complies with the following requirements:
 - A) At all times there must be at least one employee either on the premises or on call (*i.e.*, available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures specified in subsection (d)(4)(D). The employee is the emergency coordinator.
 - B) The generator shall post the following information next to the telephone:
 - i) The name and telephone number of the emergency coordinator;
 - ii) Location of fire extinguishes and spill control material, and if present, fire alarm; and
 - iii) The telephone number of the fire department, unless the facility has a direct alarm.
 - C) The generator shall ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies;
 - D) The emergency coordinator or designee shall respond to any emergencies that arise. The applicable response are as follows:
 - i) In the event of a fire, call the fire department or attempt to extinguish it

using a fire extinguisher;

- ii) In the event of a spill, contain the flow of hazardous waste to the extent possible, and as soon as is practicable, clean up the hazardous waste and any contaminated materials or soil.

- iii) In the event of a fire, explosion or other release which could threaten human health outside the facility or when the generator has knowledge that a spill has reached surface water, the generator shall immediately notify the National Response Center (using its 24-hour toll free number 800/424-8802). The report must include the following information: the name, address and U.S. EPA identification number (35 Ill. Adm. Code 722.112) of the generator; date, time and type of incident (e.g., spill or fire); quantity and type of hazardous waste involved in the incident; extent of injuries, if any; and, estimated quantity and disposition of recoverable materials, if any.

5. Section 703.121(a)(1) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 703.121(a)(1), titled, RCRA Permits, provides as follows:

- a) No person shall conduct any hazardous waste storage, hazardous waste treatment or hazardous waste disposed operation:
 - 1) Without a RCRA permit for the HWM (hazardous waste management) facility; or

6. Section 725.134 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 725.134, titled, Access to Communication or Alarm Systems, provides as follows:

- a) Whenever hazardous waste is being poured, mixed, spread or otherwise handled, all personnel involved in the operation must have immediate access to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless the permit specifies that such a device is not equipped under Section 724.132.
- b) If there is ever just one employee on the premises while the facility is operating, the employee must have immediate access to a device, such as a telephone (immediately available at the scene of operations) or a hand-held two-way radio, capable of summoning external emergency assistance, unless the permit specifies that such a device is not required under Section 724.132.
- 3) Agreements with State emergency response teams, emergency response contractors and equipment suppliers; and
- 4) Arrangements to familiarize local hospitals with the properties of hazardous waste handled at the facility and the types of injuries or illness which could result from fires, explosions or releases at the facility.
- b) Where state or local authorities decline to enter into such arrangements, the owner or operator must document the refusal in the operating record.

7. Section 725.137 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 725.137, titled, Arrangement with Local Authorities, provides as follows:

- a) The owner or operator must attempt to make the following arrangements, as appropriate for the type of waste handled at his facility and the potential need for the services of these organizations;
 - 1) Arrangements to familiarize police, fire departments and emergency response teams with the layout of the facility, properties of hazardous waste handled at the facility and associated

hazards, places where facility personnel would normally be working, entrances to roads inside the facility and possible evacuation routes;

- 2) Where more than one police and fire department might respond to an emergency, agreements designating primary emergency authority to a specific police and a specific fire department and agreements with any others to provide support to the primary emergency authority;
- 3) Agreements with State emergency response teams, emergency response contractors and equipment suppliers; and
- 4) Arrangements to familiarize local hospitals with the properties of hazardous waste handled at the facility and the types of injuries or illness which could result from fires, explosions or releases at the facility.

- b) Where state or local authorities decline to enter into such arrangements, the owner or operator must document the refusal in the operating record.

8. Section 725.271 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 725.271, titled, Condition of Containers, provides as follows:

If a container holding hazardous waste is not in good condition or if it begins to leak, the owner or operator must transfer the hazardous waste from this container to a container that is in good condition or manage the waste in some other way that it complies with the requirements of this Part.

9. Section 725.272 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 725.272, titled, Compatibility of Waste with Containers, provides as follows:

The owner or operator must use a container made of or lined with materials which will not react with and are otherwise compatible with the hazardous waste to be stored, so that

the ability of the container to contain the waste is not impaired.

10. Section 725.274 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 725.274, titled, Inspections, provides as follows:

The owner or operator must inspect areas where containers are stored at least weekly, looking for leaks and for deterioration caused by corrosion or other factors.

11. On November 3, 1994, an Illinois EPA inspector conducted an inspection and investigation of the Respondent's facility. During this inspection visit the inspector discovered that Respondent had caused or allowed approximately one hundred and seventeen (117) drums, containing waste ferric chloride or waste lacquer thinner to be stored at the facility. Complainant has alleged that storage of said drums is in violation of the above cited statute and regulations. Respondent has denied such violations, but, for purposes of this agreement and settlement of this complaint, has agreed to allow the Pollution Board to enter Complainant's allegations as uncontested.

V.

NATURE OF RESPONDENT'S OPERATIONS AND CONTROL EQUIPMENT

At its facility, Respondent manufactures plastic and metal name plates. Ferric chloride and lacquer thinner are utilized in Respondent's manufacturing process resulting in the generation of waste ferric chloride and waste lacquer thinner.

VI.

EXPLANATION OF PAST FAILURES TO COMPLY WITH THE ACT

Complainant knows of no explanation for Respondent's past failure to comply with the Act.

VII.

FUTURE PLANS OF COMPLIANCE

Respondent shall comply with all federal and state waste disposal statutes and regulations and shall properly dispose of all waste generated at its facility in accordance with state law and regulations.

VIII.

IMPACT ON THE PUBLIC RESULTING FROM NON-COMPLIANCE

Section 33(c) of the Act, 415 ILCS 5/33(c) 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 Respondent's storage of hazardous waste at the site was that waste containing hazardous pollutants were so stored at the site as to pose a potential hazard to human health or the environment.

2. The parties agree that Respondent's facility has social and economic value because of the products it manufactures and the fact it provides jobs.

3. Respondent utilizes hazardous material which can adversely impact the environment and the health and safety of area residents, if mismanaged.

4. Respondent agrees that it is technically practicable and economically reasonable to operate its metal and plastic name plate manufacturing business in compliance with the Board's Waste Disposal Regulations and to dispose of its hazardous waste in accordance with state laws.

5. Respondent did subsequently test and dispose of the hazardous waste appropriately.

IX.

CONSIDERATION OF SECTION 42(h) FACTORS

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

In determining the appropriate civil penalty to be imposed under subdivisions (a), (b)(1), (b)(2), or (b)(3) of this Section, the Board is authorized to consider 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 the 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 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. Complainant has alleged, and for purposes of this Settlement Respondent does not contest that since at least November 3, 1994 and continuing until approximately February 1, 1995, Respondent accumulated at the site, more than 6,000 kg of hazardous wastes in containers which had been stored for more than 180 days, without obtaining a RCRA permit issued by the Illinois EPA. Further, Respondent did not mark the containers with the words "Hazardous Waste" and did not place on each container, the date accumulation of the waste began. Respondent also failed to inspect the container storage area at least once a week and also did not provide immediate access to an internal alarm or emergency communication device for all

of its personnel involved in the handling of its hazardous waste.

2. Respondent has been diligent in its attempts to come into compliance with the requirements of the Act and Board's regulations following the Illinois EPA's notification of the violations.

3. Complainant is unaware of any quantifiable economic benefits accrued because of the delay in compliance with the regulatory requirements.

4. A civil penalty of five thousand dollars (\$5,000.00) is reasonable based on the duration and nature of the violations.

5. Complainant's records do not reflect previously adjudicated violations of the Act by Respondent.

X.

TERMS OF SETTLEMENT

1. Respondent agrees not to contest the allegations of past violations of Section 21(f) of the Act, 415 ILCS 5/21(f) (1994) and Sections 703.121(a), 722.134, 725.134, 725.137, 725.271, 725.272 and 725.274 of 35 Ill. Adm. Code.

2. Respondent shall pay a civil penalty of five thousand (\$5,000.00) dollars into the Illinois Environmental Protection Trust Fund as follows:

a. Respondent shall pay \$1,000.00 thirty (30) days after the Board adopts a final order approving this Stipulation and Proposal for Settlement, and the remaining \$4,000.00 shall be paid in increments of \$1,000.00 each, made payable quarterly thereafter, for

four (4) quarters, concluding no later than March 31, 1998.

b. All payments required herein 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 Division
2200 Churchill Road
P.O. Box 19276
Springfield, IL 62794-9276

Respondent's Federal Employer Identification Number ("FEIN") is 36-2543162. Such number shall appear on the face of the certified check(s) or money order(s).

3. In the event Respondent fails for more than five (5) days to make any installment payment as required in Section X.2. above, all other payment(s) are accelerated and shall become immediately due and owing.

4. 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) (1994).

a. Interest on unpaid penalties shall begin to accrue from the date the penalty amount 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.

c. All interest on penalties owed the Complainant 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 to:

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

The name and number of the case and Respondent's FEIN shall appear on the face of the check.

5. Respondent by signature on this Consent Order, represents that all waste found stored at the facility during the Illinois EPA inspector's visit of November 3, 1994, was removed from the facility and properly disposed of in accordance with state law and regulations.

6. Respondent by signature on this Consent Order, represents that as of this date the area of the facility in which hazardous waste was stored, is in compliance with the Act and Board's regulations.

7. Respondent by signature on this Consent Order, represents that the facility is not now being used as a waste storage or waste disposal facility, and further, no waste, including, but not limited to, hazardous waste and/or special waste is currently being stored in violation of the State's hazardous waste regulations, or is being disposed of at the site.

8. Effective immediately, Respondent shall at all times characterize all waste generated at the plastic and metal name plates manufacturing facility in accordance with all applicable state laws.

9. Effective immediately, Respondent shall at all times store all waste, including, but not limited to, hazardous and/or special waste generated at the plastic and metal name plates manufacturing facility in accordance with all federal, state and local laws. Further, Respondent shall at all times have all waste generated by the facility removed, and sent to a facility permitted or otherwise authorized to dispose, treat or recycle such waste, in accordance with state law and regulations.

10. Respondent shall comply with the Act and 35 Ill. Adm. Code subtitles A through H.

XI.

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., and the Board's Land Pollution Regulations, 35 Ill. Adm. Code Subtitles A through H.

XII.

RIGHT OF ENTRY

In addition to any other authority, the Illinois EPA, its employees and representatives, and the Illinois Attorney General, his

agents and representatives, upon presentation of appropriate credentials and identification, shall have the right of entry to Respondent's facility at all reasonable times, for the purposes of conducting inspections to determine compliance with, and for the purpose of enforcing the terms of this Stipulation and Proposal for Settlement. The Illinois EPA, its employees and representatives, may take any photographs or samples as they deem necessary in order to conduct their inspection. The Illinois EPA may provide Respondent with a split of the sample(s) taken, upon Respondent's request.

XIII.

RELEASE FROM LIABILITY

In consideration of Respondent's payment of a five thousand dollars (\$5,000.00) civil penalty and commitment to refrain from further violations of the Act and regulations promulgated thereunder, the Complainant shall release, waive and discharge Respondent from any further liability or penalties from violations of the Act which were the subject matter of the Complaint herein, upon receipt by Complainant of all payments required in Section X of this Stipulation and Proposal for Settlement. 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 this Stipulation and Proposal for Settlement as written.

FOR THE COMPLAINANT:

PEOPLE OF THE STATE OF ILLINOIS

JAMES E. RYAN
Attorney General of the
State of Illinois

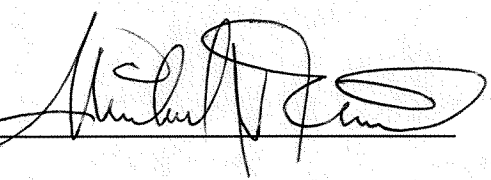
MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

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

Dated: 6/6/97


FOR THE RESPONDENT:

METO-GRAFICS, INC.

By: 

Dated: 6-19-97

ILLINOIS ENVIRONMENTAL PROTECTION
AGENCY

By: 
JOSEPH E. SVOBODA
General Counsel

Dated: 6/3/97

c:\wpwin60\wpdocs\rosemary\meto.sti

CERTIFICATE OF SERVICE

I, ROSEMARIE CAZEAU, an Assistant Attorney General in this case do certify that I caused to be mailed this 7th day of July, 1997, the foregoing Complainant's Notice of Filing, Stipulation and Proposal for Settlement, Agreed Motion to Request Relief from the Hearing Requirement, and Certificate of Service to the person(s) listed on said Notice, by First Class Mail, in postage prepaid envelopes and depositing same with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois 60601.


ROSEMARIE CAZEAU