



RECEIVED  
CLERK'S OFFICE

MAR 28 2007

STATE OF ILLINOIS  
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

**Lisa Madigan**  
ATTORNEY GENERAL

March 26, 2007

Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
100 West Randolph Street  
Suite 11-500  
Chicago, Illinois 60601-3286

**Re: *People v. North American Lighting, Inc., a Michigan corporation***  
**PCB No. 06-78**

Dear Clerk Gunn:

Enclosed for filing please find the original and ten copies of a NOTICE OF FILING, MOTION FOR RELIEF FROM HEARING REQUIREMENT and STIPULATION AND PROPOSAL FOR SETTLEMENT in regard to the above captioned matter. Please file the originals and return file-stamped copies to our office in the enclosed, self-addressed envelope.

Thank you for your cooperation and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Raymond J. Callery".

Raymond J. Callery  
Assistant Attorney General  
500 South Second Street  
Springfield, Illinois 62706

RJC/pp  
Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

**RECEIVED**  
CLERK'S OFFICE

MAR 28 2007

STATE OF ILLINOIS  
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
-vs- )  
)  
NORTH AMERICAN LIGHTING, INC., )  
a Michigan corporation, )  
)  
Respondent. )

PCB No. 06-78  
(Enforcement)

NOTICE OF FILING

To: James L. Curtis  
Seyfarth Shaw LLP  
131 S. Dearborn Street  
Suite 2400  
Chicago, IL 60603

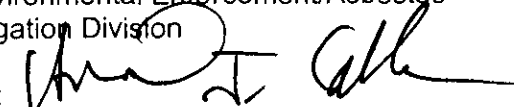
PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois, a MOTION FOR RELIEF FROM HEARING REQUIREMENT and STIPULATION AND PROPOSAL FOR SETTLEMENT, copies of which are attached hereto and herewith served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN,  
Attorney General of the  
State of Illinois

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

BY:   
RAYMOND J. CALLERY  
Assistant Attorney General  
Environmental Bureau

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: March 26, 2007

## CERTIFICATE OF SERVICE

I hereby certify that I did on March 26, 2007, send by First Class Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instruments entitled NOTICE OF FILING, MOTION FOR RELIEF FROM HEARING REQUIREMENT and STIPULATION AND PROPOSAL FOR SETTLEMENT

To: James L. Curtis  
Seyfarth Shaw LLP  
131 S. Dearborn Street  
Suite 2400  
Chicago, IL 60603

and the original and ten copies by First Class Mail with postage thereon fully prepaid of the same foregoing instrument(s)

To: Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
Suite 11-500  
100 West Randolph  
Chicago, Illinois 60601

A copy was also sent by First Class Mail with postage thereon fully prepaid to:

Carol Webb  
Hearing Officer  
Illinois Pollution Control Board  
1021 North Grand Avenue East  
Springfield, IL 62794

  
Raymond J. Callery  
Assistant Attorney General

This filing is submitted on recycled paper.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED  
CLERK'S OFFICE

MAR 28 2007

STATE OF ILLINOIS  
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
v. )  
)  
NORTH AMERICAN LIGHTING, INC., )  
a Michigan corporation, )  
)  
Respondent. )

PCB No. 06-78  
(Enforcement - Air)

**MOTION FOR RELIEF FROM HEARING REQUIREMENT**

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and pursuant to Section 31(c)(2) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(c)(2) (2004), moves that the Illinois Pollution Control Board grant the parties in the above-captioned matter relief from the hearing requirement imposed by Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2004). In support of this motion, Complainant states as follows:

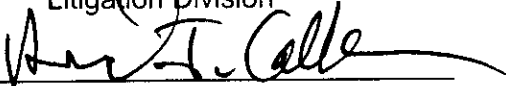
1. The parties have reached agreement on all outstanding issues in this matter.
2. This agreement is presented to the Board in a Stipulation and Proposal for Settlement, filed contemporaneously with this motion.
3. All parties agree that a hearing on the Stipulation and Proposal for Settlement is not 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) (2004).

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) (2004).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS  
LISA MADIGAN  
ATTORNEY GENERAL

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

BY: 

RAYMOND J. CALLERY  
Environmental Bureau  
Assistant Attorney General

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: February 27, 2007

MAR 28 2007

STATE OF ILLINOIS  
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
v. ) PCB No.06-78  
)  
NORTH AMERICAN LIGHTING, INC., a ) (Enforcement - Air)  
Michigan corporation, )  
)  
Respondent. )

**STIPULATION AND PROPOSAL FOR SETTLEMENT**

**TABLE OF CONTENTS**

<u>I.</u>	<u>JURISDICTION</u> .....	<u>2</u>
<u>II.</u>	<u>AUTHORIZATION</u> .....	<u>2</u>
<u>III.</u>	<u>STATEMENT OF FACTS</u> .....	<u>2</u>
	<u>A. Parties</u> .....	<u>2</u>
	<u>B. Site Description</u> .....	<u>3</u>
	<u>C. Allegations of Non-Compliance</u> .....	<u>4</u>
	<u>D. Non-Admission of Violations</u> .....	<u>4</u>
<u>IV.</u>	<u>APPLICABILITY</u> .....	<u>4</u>
<u>V.</u>	<u>COMPLIANCE WITH OTHER LAWS AND REGULATIONS</u> .....	<u>5</u>
<u>VI.</u>	<u>IMPACT ON THE PUBLIC RESULTING FROM ALLEGED</u> <u>NON-COMPLIANCE</u> .....	<u>5</u>
<u>VII.</u>	<u>CONSIDERATION OF SECTION 42(h) FACTORS</u> .....	<u>6</u>
<u>VIII.</u>	<u>TERMS OF SETTLEMENT</u> .....	<u>8</u>
	<u>A. Penalty Payment</u> .....	<u>8</u>
	<u>B. Cease and Desist</u> .....	<u>10</u>
	<u>C. Release from Liability</u> .....	<u>10</u>
	<u>D. Correspondence, Reports and Other Documents</u> .....	<u>11</u>
	<u>E. Enforcement of Board Order</u> .....	<u>12</u>

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, )  
 )  
Complainant, )  
 )  
v. ) PCB No. 06-78  
 )  
NORTH AMERICAN LIGHTING, INC., a ) (Enforcement - Air)  
Michigan 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 NORTH AMERICAN LIGHTING, INC., a Michigan corporation ("Respondent"), 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 regarding the claims asserted in the Complaint 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 November 17, 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 Michigan



corporation that is authorized to transact business in the State of Illinois.

**B. Site Description**

1. At all times relevant to the Complaint, Respondent owned and operated a manufacturing facility located at 20 Industrial Park, Flora, Clay County, Illinois (the "site").

2. Respondent is a manufacturer of automotive headlamps, fog lamps, and auxiliary systems. In its manufacturing, Respondent uses a number of chemicals, including sodium hydroxide and hydrochloric acid ("HCl").

3. At some point prior to December 2001, the Respondent arranged for the installation at the site of two approximately 5000 gallon single-walled fiberglass tanks for the bulk storage of sodium hydroxide and HCl.

4. On December 16, 2001, at approximately 3:30 p.m., the tank used to store HCl failed at the bottom, releasing HCl into the secondary containment structure; the tank had been filled on December 11, 2001.

5. An employee of the Respondent notified the Illinois Emergency Management Agency ("IEMA") of the release and local police, fire department, and other first responders were subsequently dispatched to the site. Complainant alleges that an HCl vapor cloud was released from Respondent's facility on December 16, 2001. Respondent disagrees and denies that any vapor cloud was released.

6. An inspection by the Illinois EPA on December 18, 2001, confirmed the HCl release.

7. On April 25, 2002, the Illinois EPA was provided with the results of analytical

sampling of soils from the site which showed that all samples tested below the Tiered Approach to Corrective Action Objectives remediation objectives.

**C. Allegations of Non-Compliance**

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

Count I: Air Pollution, in violation of Section 9(a) of the Act, 415 ILCS 5/9(a) (2004), and 35 Ill. Adm. Code 201.141.

**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, those allegations being specifically denied, and this Stipulation shall not be interpreted as including such admission.

**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 Complainant or the Respondent, as well as any successors or assigns of the Respondent. Neither party shall 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 contends that the injury to, or interference with, the protection of the health, general welfare, and physical property of the People would be characterized as a potential for air pollution and the degree of injury would be dependent upon the extent of the pollution and the degree of exposure of that pollution. Respondent contends that there was no injury to, or interference with the protection of the health, general welfare and physical property of the People.

2. The parties agree that Respondent's facility is of social and economic benefit.

3. The parties agree that the operation of the facility is suitable for the area in which it is located.

4. The parties agree that complying with the Act and regulations regarding the site is both technically practicable and economically reasonable.

5. The parties agree that Respondent has subsequently complied with the Act and the Board Regulations.

## 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. The alleged violation lasted no more than one day.
2. Complainant contends that the Respondent failed to act with appropriate diligence in preparing for and responding to the chemical release at its facility. Respondent denies that it failed to act with due diligence in preparing for or responding to the December 16, 2001 release.
3. Complainant contends that Respondent would have incurred certain costs in providing additional training of its employees in the proper implementation of its release contingency plan. Respondent contends that it received no recognizable economic benefit as a result of the December 16, 2001 release and that it properly trained its employees in the implementation of its emergency response plan.
4. Complainant has determined, based upon the specific facts of this matter, that a

penalty of Twenty Thousand Dollars (\$20,000.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

5. 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 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 Twenty Thousand Dollars (\$20,000.00) 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 prescribed below. The penalty described in this Stipulation shall be paid by check, payable to the Illinois EPA, designated to the Illinois Environmental Protection Trust Fund and 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), 37-1131470, shall appear on the check. A copy of the check and any transmittal letter shall be sent to:

Raymond J. Callery  
Assistant Attorney General  
Environmental Bureau  
500 South Second Street  
Springfield, Illinois 62706

and

John P. Waligore  
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:

James L. Curtis, Esq.  
Seyfarth Shaw LLP

131 S. Dearborn Street  
Suite 2400  
Chicago, Illinois 60603  
(312) 460-5000 (main)  
(312) 460-7000 (fax)

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. 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 of this Stipulation.

**C. Release from Liability**

In consideration of the Respondent's payment of the \$ 20,000.00 penalty and its agreement to Cease and Desist as contained in Section VIII.B, 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 November 17, 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.

**D. Correspondence, Reports and Other Documents**

Any and all correspondence, reports and any other documents required under this Stipulation, except for payments pursuant to Sections VIII.A ("Penalty Payment") shall be submitted as follows:

As to the Complainant:

Raymond J. Callery  
Assistant Attorney General  
Environmental Bureau  
500 South Second Street  
Springfield, Illinois 62706

and

John P. Waligore  
Assistant Counsel  
Illinois EPA  
1021 North Grand Avenue East

P.O. Box 19276  
Springfield, Illinois 62794-9276

As to the Respondent

James L. Curtis, Esq.  
Seyfarth Shaw LLP  
131 S. Dearborn Street  
Suite 2400  
Chicago, Illinois 60603  
(312) 460-5000 (main)  
(312) 460-7000 (fax)

**E. 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. The parties agree 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 waive 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.


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:

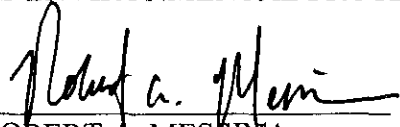
  
THOMAS E. DAVIS, Chief  
Environmental Bureau  
Assistant Attorney General

DATE:

3/26/07

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

BY:


  
ROBERT A. MESSINA  
Chief Legal Counsel

DATE:

2/28/07

NORTH AMERICAN LIGHTING, INC.

BY:

  
KIRK GADBERRY  
General Manager, Finance & Accounting

DATE:

3/20/07