

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
vs.)	PCB No.
)	(Enforcement - Water)
HOOPESTON FOODS, INC.,)	
a Delaware corporation,)	
)	
Respondent.)	

NOTICE OF ELECTRONIC FILING

To: See Attached Service List

PLEASE TAKE NOTICE that on July 1, 2011, I electronically filed with the Clerk of the Pollution Control Board of the State of Illinois, c/o John T. Therriault, Assistant Clerk, James R. Thompson Center, 100 W. Randolph St., Ste. 11-500, Chicago, IL 60601, a COMPLAINT, 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: *Rachel R. Medina*
Rachel R. Medina
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031

CERTIFICATE OF SERVICE

I hereby certify that I did on July 1, 2011, cause to be served by First Class Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box in Springfield, Illinois, a true and correct copy of the following instruments entitled NOTICE OF ELECTRONIC FILING, COMPLAINT, MOTION FOR RELIEF FROM HEARING REQUIREMENT and STIPULATION AND PROPOSAL FOR SETTLEMENT upon the persons listed on the Service List.



Rachel R. Medina
Rachel R. Medina
Assistant Attorney General

This filing is submitted on recycled paper.

SERVICE LIST

Hoopeston Foods, Inc.
c/o Ted Goodner
Registered Agent & Facilities & Engineering Manager
P.O. Box 405
Hoopeston, IL 60942

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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Complainant,)	
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vs.)	PCB No.
)	(Enforcement - Water)
HOOPESTON FOODS, INC.,)	
a Delaware corporation,)	
)	
Respondent.)	

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) (2008), 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) (2008). In support of this motion, Complainant states as follows:

1. A Complaint and Stipulation and Proposal for Settlement are being filed simultaneously with the Illinois Pollution Control Board ("Board") in this matter.
2. The parties have reached agreement on all outstanding issues in this matter.
3. This agreement is presented to the Board in a Stipulation and Proposal for Settlement, filed contemporaneously with this motion.
4. 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) (2008).

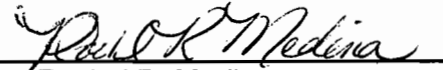
WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby requests that the Board grant this motion for relief from the hearing requirement set forth in Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2008).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS
LISA MADIGAN
ATTORNEY GENERAL

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

BY:



Rachel R. Medina
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: July 1, 2011

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
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Complainant,)	
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v.)	
)	PCB NO.
HOOPESTON FOODS, INC.,)	(Enforcement – Water)
a Delaware corporation,)	
)	
Respondent.)	

COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and at the request of the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, complains of Respondent, HOOPESTON FOODS, INC., a Delaware corporation, as follows:

COUNT I

DISCHARGING WITHOUT AN NPDES PERMIT

1. This Complaint is brought by the Attorney General on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2008).

2. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2008), and charged, *inter alia*, with the duty of enforcing the Act.

3. The Illinois Pollution Control Board ("Board") is an agency of the State of Illinois created by the Illinois General Assembly in Section 5 of the Act, 415 ILCS 5/5 (2008), and charged with the duty of promulgating regulations under the Act, pursuant to Section 26 of the Act, 415 ILCS 5/26 (2008).

4. Hoopeston Foods, Inc., a Delaware corporation ("Hoopeston"), is a bean canning company headquartered in Minnesota. The Illinois facility is located at 215 W. Washington Street, Hoopeston, IL ("site"). The registered agent in Illinois for Hoopeston is Ted Goodner, P.O. Box 405, Hoopeston, IL 60942. Mr. Goodner is also the Facilities and Engineering Manager.

5. The site discharges approximately four thousand to five thousand gallons of cooling water on a weekly basis from a 4-inch PVC pipe into a trough which enters the storm sewer between Penn and Washington Streets near Second Avenue. The storm sewer discharges to surface water at a bridge on Illinois Route 9 just west of Sixth Avenue. The receiving waterway is an unnamed tributary to the North Fork of the Vermilion River ("unnamed tributary").

6. The federal Clean Water Act regulates the discharge of pollutants from a point source into navigable waters and prohibits such point source discharges without a National Pollutant Discharge Elimination System ("NPDES") permit. The United States Environmental Protection Agency ("USEPA") administers the NPDES program in each State unless the USEPA has delegated authority to do so in that State. The USEPA has authorized the State of Illinois to issue NPDES permits through the Illinois EPA in compliance with federal regulations.

7. On November 19, 2004, the site was issued NPDES Permit IL0022250 for the discharge of non-contact cooling water. Permit IL0022250 requires the permit holder to apply for renewal of the permit no later than 180 days prior to the expiration date. Permit IL0022250 expired on December 31, 2009.

8. The NPDES permit requires Hoopeston to conduct effluent sampling and submit Discharge Monitoring Reports ("DMRs") on a monthly basis.

9. Hoopeston failed to apply for renewal of the NPDES permit within 180 days of the expiration date of the permit.

10. Hoopeston continued to discharge cooling water effluent following expiration of the permit through the present.

11. Hoopeston submitted an application for renewal of NPDES Permit IL0022250 on March 17, 2010.

12. Section 12 of the Act, 415 ILCS 5/12(a) provides, in pertinent part, as follows:

No person shall:

(a) Cause or threaten or allow the discharge of any contaminants into the environment in any State so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources, or so as to violate regulations or standards adopted by the Pollution Control Board under this Act.

(f) Cause, threaten or allow the discharge of any contaminant into the waters of the State, as defined herein, including but not limited to, waters to any sewage works, or into any well or from any point source within the State, without an NPDES permit for point source discharges issued by the Agency under Section 39(b) of this Act, or in violation of any term or condition imposed by such permit, or in violation of any NPDES permit filing requirement established under Section 39(b), or in violation of any regulations adopted by the Board or of any order adopted by the Board with respect to the NPDES program.

13. "Contaminant" is defined under Section 3.165 of the Act, 415 ILCS 5/3.165 (2008), as follows:

"Contaminant" is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

14. Section 309.102(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a), provides, as follows:

Except as in compliance with the provisions of the Act, Board regulations, and the CWA, and the provisions and conditions of the NPDES permit

issued to the discharger, the discharge of any contaminant or pollutant by any person into the waters of the State from a point source or into a well shall be unlawful.

15. Standard Condition 2 of Permit IL0022250, provides, as follows:

Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. If the permittee submits a proper application as required by the Agency no later than 180 days prior to the expiration date, this permit shall continue in full force and effect until the final Agency decision on the application has been made.

16. The cooling water which is discharged to the storm sewer is a contaminant as defined under Section 3.165 of the Act, 415 ILCS 5/3.165 (2008).

17. By continuing to discharge cooling water into the unnamed tributary following the expiration of NPDES Permit IL0022250, Respondent, Hoopeston Foods, violated Standard Condition 2 of Permit IL0022250 and Section 309.102(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a).

18. By causing, threatening, or allowing the discharge of cooling water into the unnamed tributary so as to violate Board regulations, Respondent, Hoopeston Foods, violated Section 12(a) of the Act, 415 ILCS 5/12(a).

19. By causing, threatening, or allowing the discharge of cooling water into the unnamed tributary without a permit and in violation of Standard Condition 2 of Permit IL0022250, Respondent, Hoopeston Foods, violated Section 12(f) of the Act, 415 ILCS 5/12(f).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the People of the State of Illinois, respectfully request that the Board enter an order against the Respondent, HOOPESTON FOODS, INC., a Delaware corporation:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that the Respondent has violated the Act as alleged herein;

- C. Ordering the Respondent to cease and desist from any further violations of the Act;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2008), imposing a civil penalty of not more than the statutory maximum; and,
- E. Granting such other relief as the Board may deem appropriate.

COUNT II

DISCHARGE MONITORING REPORT VIOLATIONS

- 1-13. Complainant realleges and incorporates herein by reference paragraphs 1 through 13 of Count I as paragraphs 1 through 13 of this Count II.
- 14. Respondent failed to sample the cooling water discharge and submit DMRs to Illinois EPA for the following periods: May through December 2005; January through December 2006; January through December 2007; January through December 2008; and, January through December 2009.
- 15. Section 305.102(b) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 305.102(b), provides, as follows:
 - Every holder of an NPDES (National Pollutant Discharge Elimination System) permit is required to comply with the monitoring, sampling, recording and reporting requirements set forth in the permit and this Chapter.
- 16. Section 309.146(a)(2) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 309.146(a)(2), provides, as follows:
 - The Agency shall require every holder of an NPDES Permit, as a condition of the NPDES Permit issued to the holder, to:
 - ***
 - (2) Make reports adequate to determine the compliance or lack of compliance with all effluent limits and special conditions in the permit

17. Special Condition 7 of NPDES Permit IL0022250 issued on November 19, 2004, provides, in pertinent part, as follows:

The Permittee shall record monitoring results on Discharge Monitoring Report forms using one such form for each discharge each month. If there is no discharge during a reporting period, a Discharge Monitoring Report shall be submitted stating that no discharge occurred during that particular month. The completed Discharge Monitoring Report form shall be submitted monthly to IEPA, no later than the 15th of the following month, unless otherwise specified by the IEPA....

18. By failing to sample and record monitoring results on Discharge Monitoring Report forms each month for the 56-month period beginning May 2005 through December 2009, Respondent, Hoopeston Foods, violated Special Condition 7 of NPDES Permit IL0022250 and Section 305.102(b) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 305.102(b).

19. By causing, threatening, or allowing the discharge of cooling water into the unnamed tributary in violation of Special Condition 7 of Permit IL0022250 and Board Regulations, Respondent, Hoopeston Foods, violated Section 12(f) of the Act, 415 ILCS 5/12(f).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the People of the State of Illinois, respectfully request that the Board enter an order against the Respondent, HOOPESTON FOODS, INC., a Delaware corporation:

A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;

B. Finding that the Respondent has violated the Act as alleged herein;

C. Ordering the Respondent to cease and desist from any further violations of the Act;

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2008), imposing a civil penalty of not more than the statutory maximum; and,

E. Granting such other relief as the Board may deem appropriate.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
ex rel. LISA MADIGAN,
Attorney General
of the State of Illinois

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

BY: 

THOMAS DAVIS, Chief
Environmental Bureau
Assistant Attorney General

Of Counsel

RACHEL R. MEDINA

ARDC#6297171

500 South Second Street

Springfield, Illinois 62706

217/782-9031

Dated: 6/30/11

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
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Complainant,)	
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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, the Illinois Environmental Protection Agency ("Illinois EPA"), and HOOPESTON FOODS, INC., a Delaware corporation ("Respondent") ("Parties to the Stipulation"), 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. This stipulation of facts is made and agreed upon for purposes of settlement only and as a factual basis for the Board's approval of this Stipulation and issuance of relief. None of the facts stipulated herein shall be introduced into evidence in any other proceeding regarding the violations of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/1 *et seq.* (2008), and the Board's Regulations, alleged in the Complaint except as otherwise provided herein. It is the intent of the Parties to the Stipulation that it be a final adjudication of this matter.

I. STATEMENT OF FACTS

A. Parties

1. Contemporaneously with this Stipulation a Complaint is being 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 (2008), 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 (2008).

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. At all times relevant to the Complaint, Respondent owned and operated a canning facility located at 215 W. Washington Street, Hoopeston, Vermilion County, Illinois ("site").

4. The site discharges approximately four thousand to five thousand gallons of cooling water on a weekly basis from a 4-inch PVC pipe into a trough which enters the storm sewer between Penn and Washington Streets near Second Avenue in Hoopeston, IL. The storm sewer discharges to surface water at a bridge on Illinois Route 9 just west of Sixth Avenue. The receiving waterway is an unnamed tributary to the North Fork of the Vermilion River ("unnamed tributary").

5. On November 19, 2004, the site was issued National Pollutant Discharge Elimination System ("NPDES") Permit IL0022250 for the discharge of non-contact cooling water. Permit IL0022250 expired on December 31, 2009.

6. Respondent failed to apply for renewal of the NPDES permit within 180 days of the expiration of the permit and continued to discharge cooling water effluent following expiration of the permit through the present.

7. Respondent submitted an application for renewal of NPDES Permit IL0022250 on March 17, 2010. The Illinois EPA has reviewed the application and determined that it is complete.

8. Respondent failed to sample cooling water effluent and submit Discharge Monitoring Reports ("DMRs") to Illinois EPA for the following periods: May through December

2005; January through December 2006; January through December 2007; January through December 2008; and, January through December 2009.

9. Respondent failed to submit DMRs to Illinois EPA by the required due dates for the following periods: January through February 2010; April through December 2010; and, January through February 2011.

B. Allegations of Non-Compliance

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

Count I: Discharging Without an NPDES Permit

By continuing to discharge cooling water into the unnamed tributary following the expiration of NPDES Permit IL0022250, Respondent violated Standard Condition 2 of Permit IL0022250 and Section 309.102(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a).

By causing, threatening, or allowing the discharge of cooling water into the unnamed tributary so as to violate Board regulations, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a).

By causing, threatening, or allowing the discharge of cooling water into the unnamed tributary without a permit and in violation of Standard Condition 2 of Permit IL0022250, Respondent violated Section 12(f) of the Act, 415 ILCS 5/12(f).

Count II: Discharge Monitoring Report Violations

By failing to sample and record monitoring results on Discharge Monitoring Report forms each month for the 56-month period beginning May 2005 through December 2009, Respondent violated Special Condition 7 of NPDES Permit IL0022250 and Section 305.102(b) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 305.102(b).

By causing, threatening, or allowing the discharge of cooling water into the unnamed tributary in violation of Special Condition 7 of Permit IL0022250 and Board Regulations, Respondent, violated Section 12(f) of the Act, 415 ILCS 5/12(f).

C. Admission of Violations

The Respondent represents that it has entered into this Stipulation for the purpose of settling and compromising disputed claims without having to incur the expense of contested litigation. By entering into this Stipulation and complying with its terms, the Respondent does not affirmatively admit the allegations of violation within the Complaint and referenced within Section I.B. herein, and this Stipulation shall not be interpreted as including such admission.

II. APPLICABILITY

This Stipulation shall apply to and be binding upon the Parties to the Stipulation, 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. This Stipulation may be used against the Respondent in any subsequent enforcement action or permit proceeding as proof of a past adjudication of violation of the Act and the Board Regulations for all violations alleged in the Complaint in this matter, for purposes of Sections 39 and 42 of the Act, 415 ILCS 5/39 and 42 (2008).

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

Section 33(c) of the Act, 415 ILCS 5/33(c)(2008), provides as follows:

In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges, or deposits involved including, but not limited to:

1. the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
2. the social and economic value of the pollution source;
3. the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;

4. the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
5. any subsequent compliance.

In response to these factors, the Parties to the Stipulation state the following:

1. By not sampling the cooling water effluent for the 56-month period beginning May 2005 and ending December 2009, human health and the environment were potentially threatened. In addition, the Illinois EPA's information gathering and monitoring responsibilities were seriously hindered by the Respondent's failure to submit timely discharge monitoring reports during 2010 and 2011 and the Respondent's failure to timely renew their NPDES Permit.

2. The parties agree that the Respondent's operations are of economic benefit to the surrounding community. Any social benefit is derived primarily from those employed by the facility.

3. Operation of the facility was suitable for the area in which it occurred.

4. Timely renewal of the NPDES Permit for the site and compliance with its terms, including monitoring and reporting of cooling water effluent, is both technically practicable and economically reasonable.

5. Respondent has subsequently complied with the Act and the Board Regulations since February 2011.

IV. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h)(2008), 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 Complainant states as follows:

1. The Respondent failed to timely renew their NPDES Permit IL0022250, continued to discharge cooling water effluent during the time the site was unpermitted, failed to monitor the cooling water effluent for a 56-month period, and failed to timely submit discharge monitoring reports during 2010 and 2011. The violations began on or around May 2005 and continued through February 2011.

2. Respondent was diligent in renewing their NPDES Permit and resuming monitoring of their cooling water effluent, once the Illinois EPA notified it of its noncompliance. Respondent has since provided copies of all past due discharge monitoring reports to the Illinois EPA, and has come back into compliance with the Act, Board regulations and applicable federal regulations

3. Respondent enjoyed a nominal economic benefit by avoiding monitoring and reporting of cooling water effluent during the 56-month period beginning May 2005 and ending December 2009.

4. Complainant has determined, based upon the specific facts of this matter, that a penalty of twenty-eight thousand five hundred (\$28,500.00) 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 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.

V. TERMS OF SETTLEMENT

A. Penalty Payment

1. The Respondent shall pay a civil penalty in the sum of Twenty-Eight Thousand Five Hundred Dollars (\$28,500.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

B. Stipulated Penalties, Interest and Default

1. If the Respondent fails to make any payment required by this Stipulation on or before the date upon which the payment is due, the Respondent shall be in default and the remaining unpaid balance of the penalty, plus any accrued interest, shall be due and owing immediately. In the event of default, the Complainant shall be entitled to reasonable costs of collection, including reasonable attorney's fees.

2. Pursuant to Section 42(g) of the Act, interest shall accrue on any penalty amount owed by the Respondent not paid within the time prescribed herein. Interest on unpaid penalties shall begin to accrue from the date such are due and continue to accrue to the date full payment is received. Where partial payment is made on any penalty amount that is due, such partial payment shall be first applied to any interest on unpaid penalties then owing.

C. Payment Procedures

All payments required by this Stipulation shall be made by certified check or money order payable to the Illinois EPA for deposit into the Environmental Protection Trust Fund ("EPTF"). Payments shall be sent by first class mail and delivered to:

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

The name, case number and the Respondent's federal tax identification number shall appear on the face of the certified check or money order. A copy of the certified check or money order and any transmittal letter shall be sent to:

Environmental Bureau
Illinois Attorney General's Office
500 South Second Street
Springfield, Illinois 62706

D. Future Compliance

1. The Respondent shall consistently submit DMRs to the Illinois EPA in accordance with their NPDES permit requirements and Board regulations.

2. In addition to any other authorities, the Illinois EPA, its employees and representatives, and the Attorney General, her employees and representatives, shall have the right of entry into and upon the Respondent's facility which is the subject of this Stipulation, at all reasonable times for the purposes of conducting inspections and evaluating compliance status. In conducting such inspections, the Illinois EPA, its employees and representatives, and the Attorney General, her employees and representatives, may take photographs, samples, and collect information, as they deem necessary.

3. 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.

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

E. Release from Liability

In consideration of the Respondent's payment of the \$28,500.00 penalty, its commitment to cease and desist as contained in Section V.D. above, and upon the Board's approval of this Stipulation, the Complainant releases, waives and discharges the Respondent and its officers, directors, and employees from any further liability or penalties for the violations of the Act and Board Regulations that were the subject matter of the Complaint herein. The release set forth above does not extend to any matters other than those expressly specified in Complainant's Complaint filed contemporaneously with this Stipulation. The Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against the Respondent with respect to all other matters, including but not limited to, the following:

- a. criminal liability;
- b. liability for future violation of state, federal, local, and common laws and/or regulations;
- c. liability for natural resources damage arising out of the alleged violations; and
- d. liability or claims based on the Respondent's failure to satisfy the requirements of this Stipulation.

Nothing in this Stipulation is intended as a waiver, discharge, release, or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the State of Illinois may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315, or entity other than the Respondent.

F. Enforcement and Modification of Stipulation

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

G. Execution of Stipulation

The undersigned representatives for the Parties to the Stipulation certify that they are fully authorized by the party whom they represent to enter into the terms and conditions of this Stipulation and to legally bind them to it.

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

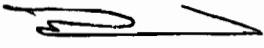
PEOPLE OF THE STATE OF ILLINOIS,

FOR THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY


LISA MADIGAN
Attorney General
State of Illinois

LISA BONNETT, Interim Director
Illinois Environmental Protection Agency

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

BY: 

THOMAS DAVIS, Chief
Environmental Bureau
Assistant Attorney General


BY: 

JOHN J. KIM
Chief Legal Counsel

DATE: 6/30/11

DATE: 6/27/11

HOOPESTON FOODS, INC.,
a Delaware corporation

BY: 

Ted Goodner
Facilities and Engineering
Manager

DATE: 6/9/2011