

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

|                                          |   |                             |
|------------------------------------------|---|-----------------------------|
| <b>PEOPLE OF THE STATE OF ILLINOIS,</b>  | ) |                             |
|                                          | ) |                             |
| <b>Complainant,</b>                      | ) |                             |
|                                          | ) |                             |
| <b>v.</b>                                | ) | <b>PCB 16-</b>              |
|                                          | ) | <b>(Enforcement - Land)</b> |
| <b>GBC METALS, LLC d/b/a Olin Brass,</b> | ) |                             |
| <b>a Delaware Corporation,</b>           | ) |                             |
|                                          | ) |                             |
| <b>Respondent.</b>                       | ) |                             |

**NOTICE OF FILING**

Brian Clappier, Assistant Attorney General, hereby certifies that he has filed and served a copy of the foregoing Notice of Filing, Complaint, Stipulation and Proposal for Settlement and Motion for Relief from Hearing Requirements upon:

Brandon Neuschafer  
Bryan Cave, LLP  
211 N. Broadway, #3600  
St. Louis, MO 63102

by placing a copy of same in the United States Mail in Springfield, Illinois, with postage fully prepaid on January 20, 2016.

Respectfully submitted,

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

BY: s/Brian Clappier  
Brian Clappier  
Assistant Attorney General  
500 South Second Street  
Springfield, IL 62706  
217/782-9031

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

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| PEOPLE OF THE STATE OF ILLINOIS,  | ) |     |
|                                   | ) |     |
|                                   | ) |     |
| Complainant,                      | ) |     |
|                                   | ) |     |
| v.                                | ) | No. |
|                                   | ) |     |
| GBC METALS, LLC d/b/a OLIN BRASS, | ) |     |
| a Delaware Corporation,           | ) |     |
|                                   | ) |     |
| Respondent.                       | ) |     |

**COMPLAINT**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, complains of the Respondent, GBC METALS, LLC d/b/a OLIN BRASS, a Delaware corporation, as follows:

**COUNT I**

**FAILURE TO PROPERLY DISPOSE OF HAZARDOUS WASTE**

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 (2014), against GBC METALS, LLC d/b/a OLIN BRASS.
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 (2014), and is charged, *inter alia*, with the duty of enforcing the Act.
3. At all times relevant to this Complaint, the Respondent, GBC METALS, LLC d/b/a OLIN BRASS, was and is a Delaware corporation, which is in good standing in the State of

Illinois and has a principal office at 475 N. Martingale Road, #1050, Schaumburg, Cook County, Illinois, 60173. The Respondent operates a metal refinery plant located at 305 Louis and Clark Blvd., East Alton, Madison County, Illinois 62024 (the "Plant").

4. At all times relevant to this Complaint, Roxana Landfill ("Roxana") was and is an Illinois EPA permitted landfill operating under Permit 1990-322-LF, Modification #120, located at 4601 Cahokia Creek Road, Edwardsville, Madison County, Illinois 62084 (the "Facility"). The Facility does not have a permit to accept hazardous waste.

5. At all times relevant to this Complaint, Midwest Sanitary Services ("Midwest") was and is a licensed waste transporter with a U.S. EPA ID Number ILD053980272.

6. Section 21(e) of the Act, 415 ILCS 5/21(e) (2014), provides as follows:

No person shall:

Dispose, treat, store or abandon any waste, or transport any waste into this State for disposal, treatment, storage or abandonment, except at a site or facility which meets the requirements of this Act and of regulations and standards thereunder.

7. Section 3.315 of the Act, 415 ILCS 5/3.315 (2014), provides as follows:

"Person" is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

8. Respondent, a corporation, is a "person" as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2014).

9. Section 3.535 of the Act, 415 ILCS 5/3.535 (2014), provides, in pertinent part, as follows:

"Waste" means any garbage . . . or any other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities. . . .

10. Section 3.220 of the Act, 415 ILCS 5/3.220 (2014), provides, in pertinent part, as follows:

"Hazardous waste" means a waste, or combination of wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious, irreversible, or incapacitating reversible, illness; or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed, and which has been identified, by characteristics or listing, as hazardous pursuant to Section 3001 of the Resource Conservation and Recovery Act of 1976, P.L. 94-580, or pursuant to Board regulations. Potentially infectious medical waste is not a hazardous waste, except for those potentially infectious medical wastes identified by characteristics or listing as hazardous under Section 3001 of the Resource Conservation and Recovery Act of 1976, P.L. 94-580, or pursuant to Board regulations.

11. Section 3.475 of the Act, 415 ILCS 5/3.475 (2014), provides, in pertinent part, as follows:

"Special waste" means any of the following:

\* \* \*

- (b) hazardous waste, as determined in conformance with RCRA hazardous waste determination requirements set forth in Section 722.111 of Title 35 of the Illinois Administrative Code, including a residue from burning or processing hazardous waste in a boiler or industrial furnace unless the residue has been tested in accordance with Section 726.212 of Title 35 of the Illinois Administrative Code and proven to be nonhazardous;

12. Section 728.134 of the Illinois Pollution Control Board's ("Board") Solid Waste Landfill Regulations, 35 Ill. Adm. Code 728.134, provides in pertinent part as follows:

- a) The following wastes are prohibited from land disposal: the wastes specified in 35 Ill. Adm. Code 721 as USEPA hazardous waste numbers D004 through D011 that are newly identified (i.e., wastes, soil, or debris identified as hazardous by the Toxic Characteristic Leaching Procedure but not the Extraction Procedure), and waste, soil, or debris from mineral processing operations that is identified as hazardous by the specifications at 35 Ill. Adm. Code 721.

13. Section 808.121(c) of the Board's Solid Waste Landfill Regulations, 35 Ill. Adm.

Code 808.121(c), provides in pertinent part as follows:

- c) No person shall cause, threaten or allow the treatment, storage or disposal of special waste in Illinois except:
  - 1) At a facility permitted or otherwise authorized to manage the special waste pursuant to 35 Ill. Adm. Code 703 or 807; or
  - 2) At a facility owned and operated by such person and subject to the on-site disposal exemption of Section 21(d) of the Act.

14. Section 810.103 of the Board's Solid Waste Landfill Regulations, 35 Ill. Adm.

Code 810.103, provides the following definitions:

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water or into any well such that solid waste or any constituent of the solid waste may enter the environment by being emitted into the air or discharged into any waters, including groundwater.... If the solid waste is accumulated and not confined or contained to prevent its entry into the environment, or there is no certain plan for its disposal elsewhere, such accumulation will constitute disposal.

"Facility" means a site and all equipment and fixtures on a site used to treat, store or dispose of solid or special wastes. A facility consists of an entire solid or special waste treatment, storage, or disposal operation. All structures used in connection with or to facilitate the waste disposal operation will be considered a part of the facility. A facility may include, but is not limited to, one or more solid waste disposal units, buildings, treatment systems, processing and storage operations, and monitoring stations.

"Landfill" means a unit or part of a facility in or on which waste is placed and accumulated over time for disposal. . . .

"Municipal solid waste landfill unit" or "MSWLF unit" means a contiguous area of land or an excavation that receives household waste, and that is not a land application, surface impoundment, injection well, or any pile of non-containerized accumulations of solid, non-flowing waste that is used for treatment or storage. A MSWLF unit may also receive other types of RCRA Subtitle D wastes, such as commercial solid waste, non-hazardous sludge, small quantity generator waste and industrial solid waste. Such a landfill may be publicly or privately owned or operated. [A] MSWLF unit may be a new MSWLF unit, an existing MSWLF

unit or a lateral expansion. A sanitary landfill is subject to regulation as a MSWLF if it receives household waste. . . . But, a landfill that receives residential lead-based paint waste and which does not receive any other household waste is not a MSWLF unit.

"Solid waste" means a waste that is defined in this Section as an inert waste, as a putrescible waste, as a chemical waste or as a special waste, and which is not also defined as a hazardous waste pursuant to 35 Ill. Adm. Code 721.

"Special waste" means any industrial process waste, pollution control waste, or hazardous waste, except as determined pursuant to Section 22.9 of the Act.

15. The Facility constitutes a "facility," a "landfill" and a "MSWLF unit" as those terms are defined in Section 810.103 of the Board's Solid Waste Landfill Regulations, 35 Ill. Adm. Code 810.103.

16. Cadmium is a hazardous and special waste with a USEPA hazardous waste number D006, as identified by the Toxic Characteristic Leaching Procedure, and Sections 3.220 and 3.475 of the Act, 415 ILCS 5/3.220 and 3.475 (2014).

17. On June 13, 2013 at approximately 10:00 am, Midwest picked up a roll-off container ("the container") from the Respondent's Plant containing 2.06 tons of bag-house filters that were characteristically hazardous for cadmium. An employee of the Respondent signed a manifest releasing the hazardous waste container from the Plant. The container was not labeled with a hazardous waste placard. Midwest delivered the container to the Roxana scale at the Facility at approximately 10:52 am on June 13, 2013. Roxana manifested the container as a non-hazardous waste and placed the hazardous waste from the container into the active face at the Landfill.

18. On June 14, 2013, the Illinois EPA inspected the Facility and spoke with representatives from Roxana and Olin Brass. Roxana had removed the hazardous waste from the active face of the Facility and placed it in three roll-off containers.

19. On July 17, 2013, the Illinois EPA sent Violation Notice L-2013-01186 to the Respondent regarding violations related to failure to properly dispose of waste, failure to properly prepare a manifest, and failure to determine the hazardous waste constituents of waste sent to the Landfill.

20. The Respondent provided Midwest with hazardous waste containing cadmium for disposal at a facility that is not permitted to accept hazardous waste and does not meet the requirements of the Act for hazardous waste disposal.

21. By disposing hazardous waste at a facility which is not permitted to accept hazardous waste, the Respondent violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2014).

22. By conducting land disposal of waste that was characteristically hazardous for cadmium, a hazardous and special waste with a USEPA hazardous waste number D006, at a facility which is not permitted to accept such waste, the Respondent violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2014), and Sections 728.134 and 808.121(c) of the Board's Solid Waste Landfill Regulations, 35 Ill. Adm. Code 728.134 and 808.121(c).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order in favor of Complainant and against the Respondent, GBC METALS, LLC d/b/a OLIN BRASS:

A. Finding that the Respondent has caused or allowed violations of Section 21(e) of the Act, 415 ILCS 5/21(e) (2014), and Sections 728.134 and 808.121(c) of the Board's Solid Waste Landfill Regulations, 35 Ill. Adm. Code 728.134 and 808.121(c);

B. Enjoining the Respondent from further violations of violations of Section 21(e) of the Act, 415 ILCS 5/21(e) (2014) and Sections 728.134 and 808.121(c) of the Board's Solid Waste Landfill Regulations, 35 Ill. Adm. Code 728.134 and 808.121(c);

C. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

D. Ordering such other and further relief as this Court deems appropriate and just.

## **COUNT II**

### **FAILURE TO PREPARE A UNIFORM HAZARDOUS WASTE MANIFEST**

1-20. Complainant realleges and incorporates by reference herein paragraphs 1 through 20 of Count I as paragraphs 1 through 20 of this Count II.

21. Section 722.120(a)(1) of the Board's Solid Waste Landfill Regulations, 35 Ill. Adm. Code 722.120(a), provides in pertinent part as follows:

(a) Manifest form required.

- 1) A generator that transports hazardous waste or offers a hazardous waste for transportation for off-site treatment, storage, or disposal or a treatment, storage, or disposal facility that offers for transport a rejected load of hazardous waste must prepare a manifest on USEPA Form 8700-22 (and, if necessary, on USEPA Form 8700-22A) according to the instructions included in the appendix to 40 CFR 262 (Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions)), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

22. Section 808.121(b) of the Board's Solid Waste Landfill Regulations, 35 Ill. Adm. Code 808.121(b), provides in pertinent part as follows:

- b) No person shall deliver special waste to a transporter unless the waste is accompanied by a manifest as specified in Section 808.122, and the



transporter has a special waste hauling permit issued pursuant to 35 Ill. Adm. Code 809...

\* \* \*

23. Section 808.122 of the Board's Solid Waste Landfill Regulations, 35 Ill. Adm. Code 808.122, provides in pertinent part as follows:

Except as otherwise provided by Section 808.121(b), the generator of any special waste shall prepare a manifest, as prescribed by 35 Ill. Adm. Code 809.501, prior to shipment.

24. Section 809.501 of the Board's Solid Waste Landfill Regulations, 35 Ill. Adm. Code 809.501, provides in pertinent part as follows:

a) Any person who delivers special waste to a permitted special waste transporter shall complete a uniform hazardous waste manifest to accompany the special waste from delivery to the destination of the special waste.

\* \* \*

b) The generator shall include in the manifest the following:

- 1) The name of the generator of the special waste and generator number;
- 2) Information stating when and where the special waste was generated;
- 3) The name of the person from whom delivery is accepted and the name of the site from which delivered;
- 4) The name and permit number of the transporter;
- 5) The date of delivery; and
- 6) The classification and quantity of the special waste delivered to the transporter.

25. The Respondent generated and offered a hazardous and special waste for transportation and off-site disposal without properly recording and classifying it as a hazardous and special waste on a manifest.

26. By generating and offering a hazardous and special waste for transportation and off-site disposal without properly preparing a manifest, the Respondent violated Sections

722.120(a) and 808.121(b) of the Board's Solid Waste Landfill Regulations, 35 Ill. Adm. Code 722.120(a) and 808.121(b).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order in favor of Complainant and against Respondent, GBC METALS, LLC d/b/a OLIN BRASS:

A. Finding that the Respondent has caused or allowed violations of Sections 722.120(a) and 808.121(b) of the Board's Solid Waste Landfill Regulations, 35 Ill. Adm. Code 722.120(a) and 808.121(b);

B. Enjoining the Respondent from further violations of Sections 722.120(a) and 808.121(b) of the Board's Solid Waste Landfill Regulations, 35 Ill. Adm. Code 722.120(a) and 808.121(b);

C. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

D. Ordering such other and further relief as the Court deems appropriate and just.

**COUNT III**

**FAILURE TO USE APPROPRIATE PLACARDS FOR HAZARDOUS WASTE**

1-20. Complainant realleges and incorporates by reference herein paragraphs 1 through 20 of Count I as paragraphs 1 through 20 of this Count III.

21. Section 722.133 of the Board's Solid Waste Landfill Regulations, 35 Ill. Adm. Code 722.133, provides in pertinent part as follows

Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must placard or offer the initial transporter the appropriate placards according to USDOT regulations for hazardous materials under subpart F of 49 CFR 172 (Placarding), incorporated by reference in 35 Ill. Adm. Code 720.111(b). If placards are not required, a generator must mark each motor vehicle according to 49 CFR 171.3(b)(1) (Hazardous Waste), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

22. The Respondent did not properly placard the container or offer the initial transporter the appropriate placards according to USDOT regulations for hazardous materials when it offered the container to Midwest for transportation off-site.

23. By not placarding the container or offering the initial transporter the appropriate placards for the Container containing hazardous waste, and subsequently offering the container to Midwest for transportation off-site, the Respondent violated Section 722.133 of the Board's Solid Waste Landfill Regulations, 35 Ill. Adm. Code 722.133.

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order in favor of Complainant and against the Respondent, GBC METALS, LLC d/b/a OLIN BRASS:

A. Finding that the Respondent has caused or allowed violations of Section 722.133 of the Board's Solid Waste Landfill Regulations, 35 Ill. Adm. Code 722.133.

B. Enjoining the Respondent from further violations of Section 722.133 of the Board's Solid Waste Landfill Regulations, 35 Ill. Adm. Code 722.133;

C. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

D. Ordering such other and further relief as the Court deems appropriate and just.

**COUNT IV**

**FAILURE TO SEND NOTIFICATION FOR HAZARDOUS WASTE SHIPMENT**

1-20. Complainant realleges and incorporates by reference herein paragraphs 1 through 20 of Count I as paragraphs 1 through 20 of this Count IV.

21. Section 728.107(a)(2) of the Board Solid Waste Landfill Regulations, 35 Ill. Adm. Code 728.107(a)(2), provides as follows:

a) Requirements for generators

\* \* \*

- 2) If the waste or contaminated soil does not meet the treatment standard or if the generator chooses not to make the determination of whether its waste must be treated, the generator must send a one-time written notice to each treatment or storage facility receiving the waste with the initial shipment of waste to each treatment or storage facility, and the generator must place a copy of the one-time notice in the file. The notice must include the information in column "728.107(a)(2)" of the Generator Paperwork Requirements Table in Table I of this Part. (Alternatively, if the generator chooses not to make the determination of whether the waste must be treated, the notification must include the USEPA hazardous waste numbers and manifest number of the first shipment, and it must include the following statement: "This hazardous waste may or may not be subject to the LDR treatment standards. The treatment facility must make the determination.") No further notification is necessary until such time that the waste or facility changes, in which case a new notification must be sent and a copy placed in the generator's file.

22. The Respondent did not send a one-time written notice that included the information outlined in the Generator Paperwork Requirements, nor did the Respondent include the USEPA hazardous waste numbers and manifest number of the waste to Roxana, which was the storage facility receiving the waste.

23. By failing to send the required one-time notification to Roxana Landfill for a shipment of hazardous waste, the Respondent violated Section 728.107(a)(2) of the Board's Solid Waste Landfill Regulations, 35 Ill. Adm. Code 728.107(a)(2).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order in favor of Complainant and against Respondent, GBC METALS, LLC d/b/a OLIN BRASS:

A. Finding that the Respondent has caused or allowed violations of Section 728.107(a)(2) of the Board's Solid Waste Landfill Regulations, 35 Ill. Adm. Code 728.107(a)(2);

B. Enjoining the Respondent from further violations of Section 728.107(a)(2) of the Board's Solid Waste Landfill Regulations, 35 Ill. Adm. Code 728.107(a)(2);

C. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

D. Ordering such other and further relief as the Court deems appropriate and just.

**COUNT V**  
**FAILURE TO DETERMINE HAZARDOUS WASTE CONSTITUENTS**

1-20. Complainant realleges and incorporates by reference herein paragraphs 1 through 20 of Count I as paragraphs 1 through 20 of this Count V.

21. Section 728.109(a) of the Board's Solid Waste Landfill Regulations, 35 Ill. Adm. Code 728.109(a), provides in pertinent part as follows:

- a) The initial generator of a solid waste must determine each USEPA hazardous waste number (waste code) applicable to the waste in order to determine the applicable treatment standards under Subpart D of this Part. This determination may be made concurrently with the hazardous waste

determination required in Section 722.111. For purposes of this Part, the waste must carry the waste code for any applicable listing under Subpart D of 35 Ill. Adm. Code 721. In addition, the waste must carry one or more of the waste codes under Subpart C of 35 Ill. Adm. Code 721 where the waste exhibits a characteristic, except in the case when the treatment standard for the listed waste operates in lieu of the treatment standard for the characteristic waste, as specified in subsection (b) of this Section. If the generator determines that its waste displays a characteristic of hazardous waste (and the waste is not D001 nonwastewaters treated by CMBST, RORGS, or POLYM of Table C to this Part), the generator must determine the underlying hazardous constituents (as defined at Section 728.102(i)) in the characteristic waste.

22. The Respondent failed to determine the hazardous waste number applicable to the hazardous and special waste in the container deposited at the Facility on June 13, 2013.

23. By not determining the hazardous waste number applicable to the waste in the container deposited at the Facility on June 13, 2013, the Respondent violated Section 728.109(a) of the Board's Solid Waste Landfill Regulations, 35 Ill. Adm. Code 728.109(a).

#### **PRAYER FOR RELIEF**

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order in favor of Complainant and against the Respondent, GBC METALS, LLC d/b/a OLIN BRASS:

A. Finding that the Respondent has caused or allowed violations of Section 728.109(a) of the Board Solid Waste Landfill Regulations, 35 Ill. Adm. Code 728.109(a);

B. Enjoining the Respondent from further violations of Section 728.109(a) of the Board Solid Waste Landfill Regulations, 35 Ill. Adm. Code 728.109(a);

C. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

D. Ordering such other and further relief as the Court deems appropriate and just.

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:   
ANDREW ARMSTRONG, Chief  
Environmental Bureau, Springfield  
Assistant Attorney General

Of Counsel:  
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200 South Fifth Street  
Springfield, IL 62704  
(217) 782-9034

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

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| PEOPLE OF THE STATE OF ILLINOIS,      | ) |     |
|                                       | ) |     |
| Complainant,                          | ) |     |
|                                       | ) |     |
| v.                                    | ) | No. |
|                                       | ) |     |
| GBC METALS, LLC d/b/a OLIN BRASS,     | ) |     |
| a Delaware Limited Liability Company, | ) |     |
|                                       | ) |     |
| 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 GBC METALS, LLC d/b/a OLIN BRASS, ("Respondent"), (collectively "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. (2014), 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. Simultaneously with the filing of this Stipulation and Proposal for Settlement, 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 (2014), 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 (2014).

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

4. At all times relevant to the Complaint, Respondent owned and operated a copper and brass products conversion and processing plant located at 305 Louis and Clark Blvd., East Alton, Madison County, Illinois (the "Plant").

5. On June 13, 2013 at approximately 10:00 am, without being requested to do so by Respondent, a licensed waste transporter picked up a roll-off container from the Respondent's Plant containing 2.06 tons of bag-house filters that were characteristically hazardous for cadmium. Respondent asserts that the roll-off container was stored at the hazardous waste area at the facility, and the Respondent had labeled the container as hazardous waste. An employee of the Respondent signed a manifest releasing the container from the Plant. The waste transporter delivered the container to a landfill (the "Landfill") that was not permitted to accept hazardous waste, and the Landfill employees manifested the container as a non-hazardous waste and placed the hazardous waste from the container into the active face at the Landfill.

**B. Allegations of Non-Compliance**

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

Count I: Failure to properly dispose of hazardous waste  
Section 21(e) of the Act, 415 ILCS 5/21(e); Sections 728.134 and 808.121 of the Board's Solid Waste Landfill Regulations, 35 Ill. Adm. Code 728.134 and 808.121(c).

Count II: Failure to prepare a uniform hazardous waste manifest  
Sections 722.120(a)(1), 808.121(b), 808.122 and 809.501 of the Board's Solid  
Waste Landfill Regulations, 35 Ill. Adm. Code 722.120(a)(1), 808.121(b),  
808.122, and 809.501.

Count III: Failure to use appropriate placards for hazardous waste  
Section 722.133 of the Board's Solid Waste Landfill Regulations, 35 Ill. Adm.  
Code 722.133.

Count IV: Failure to send notification for hazardous waste shipment  
Section 728.107(a)(2) of the Board's Solid Waste Landfill Regulations, 35 Ill.  
Adm. Code 728.107(a)(2).

**C. 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 admit the allegations of violation within the Complaint and referenced above, and this Stipulation shall not be interpreted as including such admission.

**D. Compliance Activities to Date**

Immediately following the incident, the Respondent corrected the impacts of the violations of the Act and Board's Solid Waste Landfill Regulations and returned to compliance. Once the Respondent learned that a roll-off container (the "Container") was missing from the Plant, about an hour after the transporter removed it from Respondent's Plant, the Respondent investigated the location of the Container's contents and contacted the Landfill, where the contents were disposed. On the same day, the Respondent then caused the disposed contents to be excavated, as well as the material surrounding the disposed contents in the Landfill. Respondent also consulted with the Illinois EPA to determine if the Container's contents were adequately removed from the landfill. The Respondent then properly disposed of all material removed from the Landfill.

Additionally, the Respondent implemented a new manifest procedure on June 17, 2013, to ensure that all waste is transported to a disposal facility that has approved the waste and is permitted to receive the waste. The new procedure includes three points at which verification that the transporter has obtained the proper waste container and manifest occurs – by the driver, the manifest signer, and the guard. The Respondent's personnel were trained on the new procedures and the procedures were communicated to the waste transporter so that the waste transporter's employees would be appropriately trained.

## **II. APPLICABILITY**

This Stipulation shall apply to and be binding upon the Parties to the Stipulation. 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 (2014).

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

Section 33(c) of the Act, 415 ILCS 5/33(c) (2014), 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. Human health and the environment were threatened by disposal of the hazardous waste in a landfill not licensed to receive hazardous waste.
2. There is social and economic benefit to the facility.
3. Operation of the facility was and is suitable for the area in which it is located.
4. Proper disposal of the waste and the required record keeping of waste transport and disposal is both technically practicable and economically reasonable.
5. Respondent has subsequently complied with the Act and the Board regulations.

#### **IV. CONSIDERATION OF SECTION 42(h) FACTORS**

Section 42(h) of the Act, 415 ILCS 5/42(h) (2014), 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;
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; and
8. whether the respondent has successfully completed a Compliance Commitment Agreement under subsection (a) of Section 31 of this Act to remedy the violations that are the subject of the complaint.

In response to these factors, the Parties to the Stipulation state as follows:

1. The Respondent failed to properly dispose of hazardous waste, failed to properly prepare a manifest, failed to maintain appropriate placards for hazardous waste, failed to send notification for a hazardous waste shipment. The violations began on or around June 13, 2013, and were resolved by June 14, 2013. The Respondent implemented new procedures to prevent similar problems by June 17, 2013.

2. Respondent was diligent in coming back into compliance with the Act, Board regulations and applicable federal regulations, and promptly self-reported its noncompliance to the Illinois EPA.

3. There was no economic benefit for non-compliance. While hazardous waste was disposed of in a non-hazardous landfill, which would be an economic benefit to the company, several times the amount of waste was removed from the landfill for disposal due to the fact that the hazardous waste had commingled with non-hazardous solid waste. Therefore, the

Respondent disposed of several times the amount of hazardous waste than the Respondent would have, had the Respondent disposed of the material properly at the outset of the incident.

4. Based upon the specific facts of this matter, the Complainant has determined that a penalty of Ten Thousand Five Hundred Dollars (\$10,500.00) 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. The Respondent promptly self-disclosed the violations of the Act that are the basis of the Complaint to the Illinois EPA and reported its non-compliance to the Illinois EPA.

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

8. The Respondent proposed terms of a Compliance Commitment Agreement, but the Illinois EPA rejected those terms.

#### **V. TERMS OF SETTLEMENT**

##### **A. Penalty Payment**

1. The Respondent shall pay a civil penalty in the sum of Ten Thousand Five Hundred Dollars (\$10,500.00) 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.

3. The stipulated penalties shall be enforceable by the Complainant and shall be in addition to, and shall not preclude the use of, any other remedies or sanctions arising from the failure to comply with this Stipulation.

**C. Payment Procedures**

1. 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, Illinois 62794-9276

2. The case name and case number shall appear on the face of the certified check or money order.

3. A copy of the certified check or money order and any transmittal letter shall be sent to:

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

**D. Future Compliance**

1. 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.

2. 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.

3. 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 \$10,500.00 penalty, its commitment to cease and desist as contained in Section V.D.3 above, and upon the Board's approval of this Stipulation, the Complainant releases, waives and discharges the Respondent 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 simultaneously with this Stipulation and Proposed Terms of Settlement. 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. Correspondence, Reports and Other Documents**

Any and all correspondence, reports and any other documents required under this Stipulation, except for penalty payments, shall be submitted as follows:

As to the Complainant

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

Melanie Jarvis  
Assistant Counsel  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

Chris Cahnovsky  
Regional Manager  
Bureau of Land  
Illinois Environmental Protection Agency  
2009 Mall Street  
Collinsville, IL 62234

As to the Respondent

Brandon Neuschafer  
Bryan Cave LLP  
One Metropolitan Square  
211 North Broadway, Suite 3600  
St. Louis, MO 63102-2750

GBC Metals, LLC d/b/a Olin Brass  
Attn: Keith Pontow  
305 Lewis and Clark Blvd.  
East Alton, IL 62024

Scott Hamilton  
General Counsel and Corporate Secretary  
Global Brass and Copper, Inc.  
1901 N. Roselle Road, Suite 800  
Schaumburg, IL 60195

**G. 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.

**H. 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

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

LISA MADIGAN  
Attorney General  
State of Illinois

LISA BONNETT, Director  
Illinois Environmental Protection Agency

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

BY:



ANDREW ARMSTRONG, Chief  
Environmental Bureau, Springfield  
Assistant Attorney General

BY:



JOHN J. KIM  
Chief Legal Counsel

DATE:

01/15/2016

DATE:

1/13/16

RESPONDENT

BY:



Dale Taylor, Vice President, *KAP*  
Mill Products Manufacturing *per*

DATE:

11-19-2015

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF  
ILLINOIS,

**Complainant,**

**v.**

**GBC METALS, LLC**  
**d/b/a OLIN BRASS,**  
**a Delaware Corporation,**

**Respondent.**

**PCB NO.**  
**(Enforcement - Land)**

## **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, who requests relief from the requirement of a hearing in this matter. In support thereof, the Complainant states as follows:

1. Along with this Motion, Complainant filed on January 22, 2016 the initial Complaint in this matter and a Stipulation and Proposal for Settlement executed between Complainant and Respondent, GBC Metals, LLC d/b/a Olin Brass.

2. Section 31 of the Act, 415 ILCS 5/31 (2014), provides, in pertinent part, as follows:

\* \* \*

- (c)(2) Notwithstanding the provisions of subdivision (1) of this subsection (c), whenever a complaint has been filed on behalf of the Agency or by the People of the State of Illinois, the parties may file with the Board a stipulation and proposal for settlement accompanied by a request for relief from the requirement of a hearing pursuant to subdivision (1). Unless the Board, in its discretion, concludes that a hearing will be held, the Board shall cause notice of the stipulation, proposal and request for relief to be published and sent in the same manner as is required for hearing pursuant to subdivision (1) of this subsection. The notice shall include a statement that any person may file a written demand for hearing within 21 days after receiving the notice. If any person files a timely written demand for

hearing, the Board shall deny the request for relief from a hearing and shall hold a hearing in accordance with the provisions of subdivision (1).

\* \* \*

3. No hearing is scheduled in this matter.
4. The Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby requests relief from the requirement of a hearing pursuant to 415 ILCS 5/31(c)(2) (2014).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS  
LISA MADIGAN  
ATTORNEY GENERAL

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

BY:   
BRIAN CLAPPIER  
Environmental Bureau, Springfield  
Assistant Attorney General

Dated: January 20, 2016