

September 2, 2014

City of Chicago, Department of Public Health
Attn: Environmental Permitting and Inspections
333 South State Street, Room 200
Chicago, IL 60604

Re: S.H. Bell Variance Request

To Whom It May Concern:

Thank you for the opportunity to comment on the application of S.H. Bell for variances from the Department of Health's Rules and Regulations for Control of Emissions from the Handling and Storage of Bulk Material Piles ("Rules"). These comments are submitted on behalf of the Natural Resources Defense Council ("NRDC") and our nearly 10,000 members and activists in the City of Chicago, including those who reside on the Southeast Side in the Calumet area, as well as the Southeast Environmental Task Force ("SETF"), an active community group dedicated to improving the Calumet neighborhood's environment. For the reasons set forth below, the application is incomplete and fails to demonstrate that the requested variances will not have an adverse impact on the community and environment, and thus the request should be denied.

According to information derived from the demographic feature of U.S. EPA's ECHO database, there are 19,988 people who live within a one mile radius of the applicant's facility. More than 87% of the people who live within this one mile radius are Hispanic (81.66%) or African-American (6.33%). U.S. EPA's ECHO database also indicates a total of 5,837 households in this one mile radius, with a total population of 6,367 children 17 years and younger.

The applicant's facility operates in the densely populated East Side neighborhood of Chicago. Avenue O, which curves along the eastern and southern boundaries of the applicant's facility, is the dividing line between its industrial property and the immediately adjacent homes, small businesses, schools and churches of the East Side. The western perimeter of the property is the Calumet River. The Calumet River is used extensively by recreational watercraft.

On July 15, 2014, U.S. EPA Region 5 issued a Notice of Violation to S.H. Bell alleging multiple, widespread violations of requirements that originate in the Clean Air Act. Virtually all of these violations arise from fugitive dust emissions at the 10218 South Avenue O facility. More specifically, U.S. EPA inspectors found:

- Dry, dusty roads with heavy truck traffic
- Visible emissions originating from storage piles at the barge pile loading dock; on one occasion, opacity readings reached 85%, and averaged 12.7% during the 6-minute averaging period; on another occasion, opacity readings reached 80% and averaged 10.4% during the 6-minute averaging period
- Fugitive dust crossing the property line "at multiple locations"

- Off-site manganese dust wipe samples from nearby homes and public spaces that EPA asserts originate at least in part from S.H. Bell, which stores direct reduced iron, a manganese-based alloy
- Normal traffic pattern access areas surrounding storage piles and throughout the property are not treated with water, oils or other chemical dust suppressants

The U.S. EPA NOV concludes, “These violations have caused or can cause excess emission of particulate matter.” A copy of this NOV is attached and labeled as Exhibit 1.

On March 30, 2012, a Complaint was filed against S.H. Bell on behalf of the People of the State of Illinois by Lisa Madigan. *People of the State of Illinois v. S.H. Bell Co., INC*, a Pennsylvania corporation, Illinois Pollution Control Board, PCB12-120 (Enforcement). The Complaint alleges S.H. Bell operated its Chicago facility without a required Federally Enforceable State Operating Permit. The parties ultimately stipulated that from October 20, 2006 to March 30, 2012, S.H. Bell failed to obtain and operated without the requisite CAAPP or FESOP permit issued by the Illinois EPA. The Complaint did not allege violations of emission limits; rather, it focused on S.H. Bell’s “absence of due diligence in complying with the Act, prior to the issuance of the VN letter by Illinois EPA as evidenced by its failure to timely apply for and obtain the requisite FESOP permit.” A copy of IPCB’s Order resolving this enforcement action is attached and labeled as Exhibit 2.

S.H. Bell acknowledges the presence of a variety of bulk solids on its property, including ferroalloys, pig iron, silicon carbide, refractory products, graphite electrode and nonferrous metals such as copper, zinc and aluminum. Satellite images available through Google Earth show multiple outdoor material piles on S.H. Bell’s property, including piles adjacent to the Calumet River and in close proximity to a residential neighborhood on the east side of Avenue N. It would be impossible to move material by truck to and from the site without using public roadways that traverse residential neighborhoods.

Industrial Impacts to City Residents and Environment

Earlier this year, the City adopted the new Rules to help address the problem of harmful dust pollution from industrial sources like S.H. Bell. Dust pollution can cause permanent harm to people’s lungs, significantly limit the uses and enjoyment (and so market values) of private property as well as public parks, and inhibit the growth of plants and wildlife.¹ While a significant impetus for the Rules was the clouds of petroleum coke and coal dust from several handlers along the Calumet River, the City appropriately sought to reduce dust from bulk materials more generally, adopting rules that apply city-wide to handlers of a range of bulk materials. This action represented a much-needed update to the City’s existing measures to combat dust.

¹ Comments of NRDC et al. (“Comments”) at 3-7, available at http://www.cityofchicago.org/content/dam/city/depts/cdph/environmental_health_and_food/PetCoke_Public_Comments/NRDC_SETF_Alliance_for_the_Great_Lakes_ELPC_Faith_in_Place_R_HAMC_and_Sierra_Club_Recvd_2-7-14.pdf.

We continue to believe that the Rules are too lax in some areas; however, they represent a significant step forward in providing increased protections to Chicago communities. Moreover, as set forth below in more detail, we believe it is imperative that the Commissioner stringently assess applications for variances to ensure the purposes of the Rules are not circumvented on a case-by-case basis.

Objections to Variance Provisions

In our prior comments on the City's proposed dust rules, we noted significant concerns with both the scope of the variance provision and the lack of procedural safeguards for making variance determinations.² We urged the City to dispense with the variance provision altogether, or at minimum to include additional safeguards both in terms of substance and process. The City responded by adding requirements for variance applications, an opportunity for public comment, and criteria for reviewing a variance application.³ With these improvements, the Commissioner is empowered to hold applicants' demonstrations to high standards and to pay close attention to the interests of the public articulated through their written comments.

At the outset, we provide two general comments to guide this review. First, the area of fugitive dust regulation generally is plagued by a history of poor emissions estimates, overblown claims of control efficiencies, and vague requirements. As such, it is especially important that applications for variances are supported by detailed, site-specific information, robust technical demonstrations, and specific, enforceable proposed requirements. Second, obligations and costs above what the facility would have borne under prior city, state and federal obligations are to be expected under this new set of regulations. Mere reference to some increase in burden should not qualify as grounds for a variance.

CDPH Must Deny The Applicant's Request To Avoid Installing PM Monitors

The scope of the Commissioner's authority and responsibility is broad, extending to "...any matter, material or substance susceptible to being windborne and for the handling, transportation, disposition or other operation with respect to any material subject to being windborne." Municipal Code of Chicago 11-4-770. As pointed out by CDPH in its March 13, 2014 Response To Public Comments, the intent in establishing regulations is to protect public health and the environment from activities that have the potential to cause windborne dust, even "...existing businesses that are lawfully operating under current Chicago land use laws." City of Chicago Department of Public Health, Official Response to Public Comments on the Proposed Rules and Regulations For The Handling and Storage of Bulk Material Piles, March 13, 2014, at 3. As asserted by CDPH, there are four categories of material and handling and storage activities that its own experts concluded can create airborne dust as part of the outdoor storage of materials - bulldozing and grading, material dropping operations, equipment travel on the surfaces of stockpiles and vehicle travel on paved roads. *Id.* at 4.

Consistent with the MCC, CDPH appropriately requires that these facilities have the capacity to prevent, detect and respond to potential releases of windborne material. To this end, CDPH mandates the development and implementation of a proactive fugitive dust plan. Every fugitive

² Comments at 38-40.

³ Rules Section 8.0

dust plan must contain some required elements, but CDPH also expressly allows flexibility for businesses to develop plans that make the most sense based on their unique operations. *Id.* at 21. However, the actual success of a fugitive dust plan is not left to guesswork. For CDPH, the most reliable means to demonstrate the success of a fugitive dust plan for operators, regulators and residents is through uniform, empirically verifiable PM monitoring. It is not an exaggeration to state that PM monitoring is the lynchpin of the new CDPH protocol. As stated by CDPH:

The requirement for fugitive dust monitoring is a critical component of the regulations to ensure that the facility's dust control measures are working. CDPH inspectors cannot observe facility operations on a daily basis. And facility workers who are occupied in doing their jobs may not always realize when there is a dust problem. Therefore, the PM monitors are important for alerting facility operators when there might be an issue with their dust control systems. They are also important to ensure compliance with the fugitive dust prohibition, as well as to give neighbors a level of comfort in knowing the air is being monitored. *Id.* at 23.

Because of the importance of PM monitoring, the variance standard is the most difficult of any requirement in the CDPH regulations. In addition to the exacting variance standards in Section 8.0, the standard for a variance from PM monitoring is also addressed in Section 3.0(4), which establishes the following threshold criteria:

Unless...the Facility Owner or Operator establishes that the Facility's operations do not result in off-site fugitive dust emissions, the Facility Owner or Operator must install, operate, and maintain, according to manufacturer's specifications, permanent, continuous Federal Equivalent Method (FEM) real-time PM 10 monitors around the perimeter of the facility...

Simply, the applicant in this case must establish its operations do not result in off-site fugitive dust emissions as a result of any of its activities, for example, bulldozing and grading, material dropping operations, equipment travel on the surfaces of stockpiles and vehicle travel on paved roads. The applicant must establish these kinds of operations do not result in off-site fugitive dust emissions over the full range of weather and operating conditions. The applicant must establish "no off-site fugitive dust emissions" for every compass point around the perimeter of its facility, be it a waterway, public road, or residential neighborhood. If the applicant fails to establish the "no fugitive off-site dust emissions", it cannot be granted a variance from the requirement to establish a PM monitoring system in accordance with the regulations.

For the applicant, this does not mean a variance is impossible; instead, it means the applicant cannot meet this exacting standard now. Without irony, we would point out that the best way for the applicant to attempt to demonstrate there are no off-site fugitive dust emissions is to establish the PM monitoring network now required by the Rules. Following site improvements, if PM monitoring establishes there are "no off-site fugitive dust emissions" (at the locations and in the range of particle sizes measured by the monitors) over a representative period of time and range of conditions, then this is the point at which to seek a variance from an ongoing obligation to continue this monitoring. The monitoring would establish an objective empirical basis for the variance that would have credibility for regulators, other regulated entities and residents. In the meantime, in the event the monitoring system detects off-site dust emissions not anticipated by

the applicant, it will provide a basis for further refinement of its fugitive dust plan. In any event, it is much more likely the task of developing and implementing a fugitive dust plan will be taken seriously if the results are verified by perimeter PM monitors, operated according to a uniform regulatory protocol.

The Applicant Has Not Met The Standard for Receiving A Variance From Several Operational Requirements

In addition to its variance request from PM monitoring requirements, the applicant also requests extensions or variances from several other requirements of the CDPH Rules. For example, the applicant requests extensions to achieve compliance (in one case, 120 days to construct a weather station, in another case 90 days to construct a water suppression system for rail loading and unloading). The applicant bears the burden of demonstrating why it needs this additional time. It has not provided an adequately detailed demonstration of need, nor a justification for a specific, near term and enforceable alternative.

Another request lacks information necessary for CDPH action. The applicant seeks to avoid constructing a truck loadout shed. However, the applicant can only speculate on the infeasibility of this requirement. As it explicitly states, “...*it is unclear whether* installation of such a shed would meet the locations of the existing railway right-of-way, the City of Chicago’s right-of-way on the roads or the proposed setback requirements (emphasis added).” CDPH should deny a request for variance until the applicant obtains the necessary clarity. The applicant further asserts the costs inherent in the construction of a building for loading and unloading trucks are prohibitive, but provides no cost figures to support its assertion. Because of the unformed and speculative nature of this variance request, we urge the Commissioner to deny it.

As to its many requests for outright variances, the applicant must describe the process or activity for which the variance is sought, and demonstrate why the variance will not result in a public nuisance or “adversely impact the surrounding area, the surrounding, environment, or surrounding property values.”⁴ The applicant also must explain why compliance would impose an arbitrary or unreasonable hardship.⁵ In turn, in making a determination on a variance application, the Commissioner is to consider public comments, and give particular consideration to, among other things, whether a demonstration has been made that any adverse impacts will be

⁴ Rules Section 8.0(2)(b) and (d).

⁵ *Id.* at (e)(i). While Section 8 does not lay out additional guidance on what constitutes an arbitrary or unreasonable hardship, guidance may be found in the City’s parallel criteria for review of a variation from the zoning ordinance, as summarized in City of Chicago, Dept. of Housing and Economic Development, “Zoning Board Rules and Regulations,” August 2011, at 12-13, available at

http://www.cityofchicago.org/content/dam/city/depts/zlup/Administrative_Reviews_and_Approvals/Publications/ZBA_Rules_and_Regulations.pdf.

minimal.⁶ Because the application falls short in many respects, we urge the Commissioner to deny the variance requests.⁷

Of S.H. Bell's variance requests, five are particularly objectionable. First, S.H. Bell objects to the regulatory definition of a high wind event, which is 15 mph. The applicant proposes the alternative of 20 mph.

The applicant should not be allowed variances based on an alternative 20 mph high wind event threshold. The basis for 15 mph is well grounded in the City's reasoned conclusions in its Response to Public Comments on the Proposed Rules and Regulations For The Handling and Storage of Bulk Material Piles. Stated simply, a high wind event is 15 mph not 20 mph. The City's conclusion that 15 mph is a high wind event is well-supported by the record. As stated by the City:

Fifteen miles per hour is the standard for high wind speeds in South Coast AQMD's Rule 15. It is also the standard above which work must be suspended with material piles on construction sites, in accordance with Section 11-4-760 of the MCC, unless alternative measures are implemented to effectively control dust. *Id.* at 9.

The City further notes that the CDM Study it commissioned determined hourly wind speeds exceed 15 mph only 13% of the time, but that these periods account disproportionately for calculated annual emissions. Consequently, periods when winds exceed 15 mph merit special attention in developing and implementing fugitive dust plans. *Id.* at 10. The stakes are particularly high because densely populated residential neighborhoods are to the west and northwest of applicant's facility, directly in the path of material being carried by prevailing winds in this region.

The applicant's variance proposal is not as protective of human health and the environment because it would not deploy responsive measures at the mandated 15 mph wind speed. Unlike the City's well-reasoned decision, the applicant provides little empirical justification for its alternative, relying instead on the fear of inconveniencing its normal operations. Because this is a significant deviation from the Rules, is not as protective as the City standard, and is proposed without adequate justification, SETF and NRDC urge the Commissioner to deny this alternative standard and the related variance requests.

Second, the applicant requests a variance from dust suppression requirements when temperatures drop below 32 degrees F. NRDC and SETF point to the well-reasoned basis for the requirement to maintain dust suppression capabilities over the full temperature range. CDPH determined that the highest average wind speed in Chicago occurs over the winter months. *Id.* at 9. CDPH

⁶ See Rules Section 8.0(3)(a).

⁷ See Rules Section 8.0(3)(b). At most, the Commissioner should only grant the portions of the variance for which the applicant has provided the requisite supporting information and require supplemental information to be provided moving forward, upon which the variance is conditioned. *Id.* at (3)(c) ("The Commissioner may grant a variance in whole or in part, and may attach reasonable conditions to the variance to ensure minimization of any adverse impacts.")

further determined that higher wind periods like those in the winter account disproportionately for annual emissions. *Id.* at 10. Yet, this is the very period for which the applicant is seeking a variance from operating any dust suppression system. This request was made even though CDPH broadened the allowable approaches to dust suppression, stating that “as long as a facility is applying water or another solution in a manner that effectively suppresses fugitive dust, it does not matter whether they use a hose, a cannon, a mister or another technology.” *Id.* at 13. The City’s further allows that dust suppressant systems must be operable but not necessarily dispensing at all times. *Id.* at 24. Consequently, if (as the applicant asserts) it is far- fetched that fugitive dust events will occur in freezing conditions, the City has already provided significant operational flexibility.

Despite these accommodations, the applicant contends it cannot maintain a dust suppression system when temperatures drop below 32 degrees F. Notably, the applicant has not explained why it cannot employ a misting or heating system (by contrast to a spraying system). The City Rules provide the applicant with the flexibility to tailor different dust suppression systems to different materials that are handled and stored on-site; it’s not clear the applicant has contemplated this type of more tailored approach. Finally, the applicant’s request is devoid of financial information to justify any hardship it would experience in order to comply. Consequently, NRDC and SETF contend CDPH must deny this variance request.

Third, the applicant seeks a variance from requirements to comply fully with off-site roadway cleaning requirements. The importance of the complete implementation of this City requirement for this applicant is unmistakably apparent in light of the location of the facility. The roadways that serve the facility traverse densely populated residential neighborhoods. Because of this configuration, the risk of public exposure to any materials deposited on roadways is particularly acute, including for pedestrians and children playing in immediately adjacent residential areas. As with many of its other variance requests, the applicant speculates about the difficulty and inconvenience of implementing this measure, but provides no empirical data demonstrating an unreasonable hardship. Consequently, NRDC and SETF contend CDPH must deny this variance request.

Fourth, the applicant seeks a substantial change in the requirement for a 50 foot setback from waterways for material piles. Instead, S.H. Bell proposes operating exactly as it has, with 20 foot setbacks. The reason for 50 foot setbacks is to help prevent leachate and runoff from being discharged from material piles into waterways. CDPH’s regulations serve the critical purpose of helping to ensuring that rainfall and snowmelt that come into contact with industrial materials do not create polluted leachate that enters waterways. For water that doesn’t percolate through material piles, the risk is poorly controlled stormwater runoff. The applicant’s request is based on broad, largely unsupported assertions of effective physical barriers that would prevent polluted wastewater from entering the Calumet River. This is an unsupported, unsubstantiated claim. It overlooks that leachate and runoff threaten surface soil, subsurface materials and groundwater and may have complex hydrologic and hydrogeologic pathways into surface waters like the Calumet River. As to this request, the lack of supporting data and calculations renders the application incomplete on its face.

The applicant’s arguments about hardship are similarly deficient. Notably, the City’s Rules provide for a 24-hour exemption for material which is being loaded or unloaded. As stated by

the applicant, “Indoor storage *for typical inbound shipments* would require a minimum of 80,000 square feet and cost at least \$5.2 million to construct” (emphasis added). In making this assertion, the applicant is asking the Commissioner to accept the premise that the only place where it can store inbound shipments is on one portion of its property; namely, a narrow strip of land between two slips. This is not accurate. While the setback requirements may have the effect of changing material throughput and the configuration of material storage at the applicant’s site, they do not dictate the construction of a \$5.2 million enclosure. Material piles can be moved elsewhere, inbound and outbound shipments of materials are unaffected during a 24-hour period, and there is still the possibility of reduced permanent storage even on the narrow strip of land for which the variance is sought. The applicant has not demonstrated that the setback requirements will create an arbitrary or unreasonable hardship because it has only evaluated a worst case scenario. Its application does not evaluate alternatives that may require some changes in business practice, but nonetheless will comply with the regulations. Consequently, NRDC and SETF contend CDPH must deny this variance request.

Fifth, the applicant seeks to avoid dust control measures while conducting barge and boat unloading. As stated by the applicant, “As a raw material warehouse, S.H. Bell Co. does far more unloading of barges than loading.” Even though unloading is a recurrent activity at the site, the applicant seeks a complete variance from Section 3.0(13), which requires dust minimization consistent with one of four methods identified in Section 3.0(7) – enclosure, water spray, venting through pollution control equipment or transferring only moist material. The public health basis for requiring dust suppression during unloading is well-established in the record of the City’s Rules. The City’s fugitive dust study identified material dropping operations (for example, unloading materials from a barge and “dropping” them onto land, a vehicle bed or a conveyor) as a source of fugitive dust emissions.

For its part, the applicant prefers to continue operating its current system without incorporating any of these dust suppression methods, but provides no information establishing why it faces an arbitrary or unreasonable hardship to comply. Indeed, on Page 3 of its application, S.H. Bell honestly acknowledges it already employs one of the acceptable dust suppression methods during unloading, stating, “For barge unloading, S.H. Bell Co. may utilize wet suppression for material that is water compatible, such as pig iron.” A similar assertion is found in its Fugitive Dust Plan. In addition, the applicant is willing to install a water spray monitoring system to control fugitive dust during rail car loading and unloading operations, which the applicant states occur infrequently. To accomplish this, the applicant “...is working with a vendor to procure the water suppression equipment (on a rent to purchase basis).” Consequently, as to barge unloading, it appears the applicant objects not on the basis of infeasibility or hardship, but rather because of a preference to operate a dust suppression system at its own discretion, without regulation. While this is clearly in the applicant’s self-interest, the resulting request for a variance to perform dust suppression during unloading is directly contrary to the purposes of the CDPH regulations and does not meet the standard for a variance.⁸ CDPH must deny this variance request.

⁸ Whether the applicant has given such material to the City or other permitting agency in some other submission is moot for purposes of the concerns here – without including this information in a complete variance application, the public cannot meaningfully comment.

For these reasons, we respectfully request that the Commissioner deny this application for a variance. Please do not hesitate to contact us if you have any questions.

Sincerely,

Handwritten signature of Keith Harley in cursive script.

Keith Harley
Attorney for the Southeast Environmental Task Force
Chicago Legal Clinic, Inc.
kharley@kentlaw.iit.edu
(312) 726-2938

Handwritten signature of Ann Alexander in cursive script.

Ann Alexander
Attorney, Midwest Program
Natural Resources Defense Council
(312) 663-9900

Menu



Detailed Facility Report

Facility Summary

SH BELL CO
10218 SOUTH AVENUE O, CHICAGO, IL 60617

Facility Information (FRS)

FRS ID: 110005837737
 EPA Region: 05
 Latitude: 41.7095
 Longitude: -87.54175
 Industry:
 Indian Country: N

Regulatory Interests

Clean Air Act: Operating Minor (1703101446)
 Clean Water Act: No Information
 Resource Conservation and Recovery Act: Inactive -- (ILD069973253)
 Safe Drinking Water Act: No Information

Also Reports

Air Emissions Inventory (EIS): 3200811
 Greenhouse Gas Emissions (eGGRT): No Information
 Toxic Releases (TRI): No Information

Enforcement and Compliance Summary

| Statute | Insp (5 Years) | Date of Last Inspection | Current Compliance Status | Qtrs in NC (of 12) | Qtrs in Significant Violation | Informal Enforcement Actions (5 years) | Formal Enforcement Actions (5 years) | Penalties from Formal Enforcement Actions (5 years) | EPA Cases (5 years) | Penalties from EPA Cases (5 years) |
|---------|----------------|-------------------------|---------------------------|--------------------|-------------------------------|--|--------------------------------------|---|---------------------|------------------------------------|
| CAA 2 | 2 | 09/04/2012 | Compliant | 6 | 5 | 2 | 1 | \$15,000 | -- | -- |
| RCRA -- | -- | -- | No Violation | 0 | 0 | -- | -- | -- | -- | -- |

Facility/System Characteristics

Facility/System Characteristics

| Statute | Identifier | Universe | Status | Areas | Permit Expiration Date | Indian Country | Latitude | Longitude |
|---------|--------------|----------------------------|-----------|----------------------|------------------------|----------------|-----------|------------|
| -- | 110005837737 | -- | -- | -- | -- | N | 41.7095 | -87.54175 |
| CAA | 1703101446 | Federally Reportable Minor | Operating | SIP, TITLE V PERMITS | -- | N | 41.708669 | -87.563611 |
| CAA | 3200811 | -- | Operating | -- | -- | N | 41.7095 | -87.54175 |
| RCRA | ILD069973253 | -- | Inactive | -- | -- | N | 41.708558 | -87.539725 |

Facility Contact Information

| System | Identifier | Facility Name | Facility Address |
|----------|--------------|---------------|---|
| FRS | 110005837737 | SH BELL CO | 10218 SOUTH AVENUE O, CHICAGO, IL 60617 |
| AFS | 1703101446 | SH BELL CO | 10218 S AVE O, CHICAGO, IL 60617 |
| EIS 2011 | 3200811 | SH Bell Co | 10218 S Ave O, Chicago, IL 60617 |
| RCR | ILD069973253 | BELL S H | 10218 S AVE O, CHICAGO, IL 60617 |

Facility SIC Codes

| System | Identifier | SIC Code | SIC Desc |
|--------|------------|----------|----------|
| AFS | 1703101446 | 4225 | -- |

Facility NAICS Codes

| System | Identifier | NAICS Code | NAICS Desc |
|----------|--------------|------------|---------------------------------------|
| AFS | 1703101446 | 493110 | General Warehousing and Storage |
| EIS 2011 | 7200611 | 497110 | General Warehousing and Storage |
| RCR | ILD069973253 | 319999 | All Other Miscellaneous Manufacturing |

Facility Tribe Information

| Tribal Name | EPA Tribal ID | Distance to Tribe (miles) |
|--------------------------|---------------|---------------------------|
| No data records returned | | |

Enforcement and Compliance

Compliance Monitoring History (5 years)

| State | Source ID | System | Inspection Type | Lead Agency | Date | Finding |
|-------|------------|--------|-----------------------------|-------------|------------|---------|
| CAA | 1703101446 | AFS | STATE CONDUCTED FCE/ON-SITE | State | 07/07/2010 | -- |
| CAA | 1703101446 | AFS | EPA FCE/OFF-SITE | EPA | 05/19/2014 | -- |
| CAA | 1703101446 | AFS | STATE CONDUCTED FCE/ON-SITE | State | 09/04/2012 | -- |
| CAA | 1703101446 | AFS | EPA FCE/ON-SITE | EPA | 04/25/2014 | -- |
| CAA | 1703101446 | AFS | STATE FCE/ON-SITE | State | 04/23/2014 | -- |

Entries in italics are not considered inspections in official counts.

Compliance Summary Data

| State | Source ID | Current SNC/HPV | Description | Current As Of | Qtrs in NC (of 12) |
|-------|--------------|-----------------|-----------------------|---------------|--------------------|
| CAA | 1703101446 | Yes | VIOLATION UNADDRESSED | 08/02/2014 | 6 |
| RCRA | ILD069973253 | No | -- | 08/02/2014 | 0 |

Three Year Compliance Status by Quarter

| State | Program/Pollutant/Violation Type | QTR 1 | QTR 2 | QTR 3 | QTR 4 | QTR 5 | QTR 6 | QTR 7 | QTR 8 | QTR 9 | QTR 10 | QTR 11 | QTR 12 |
|-------|--|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|
| CAA | (Source ID: 1703101446) | 07/01-09/30/2011 | 10/01-12/31/2011 | 01/01-03/31/2012 | 04/01-06/30/2012 | 07/01-09/30/2012 | 10/01-12/31/2012 | 01/01-03/31/2013 | 04/01-06/30/2013 | 07/01-09/30/2013 | 10/01-12/31/2013 | 01/01-03/31/2014 | 04/01-06/30/2014 |
| | Facility-Level Status | HPV | HPV | HPV | HPV | In Viol | No Viol | No Viol | No Viol | No Viol | No Viol | No Viol | HPV |
| | HPV History | Unaddr-State | Addr-State | Addr-State | Addr-State | -- | -- | -- | -- | -- | -- | -- | Unaddr-EPA |
| | Program/Pollutant in Current Violation | | | | | | | | | | | | |
| CAA | SIP | -- | V-EM&PRO | V-EM&PRO | V-EM&PRO | V-EM&PRO | -- | -- | -- | -- | -- | -- | -- |
| | PARTICULATE MATTER < 10 UM | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | V-No Sched |
| CAA | TITLE V PERMITS | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- |
| State | Program/Pollutant/Violation Type | QTR 1 | QTR 2 | QTR 3 | QTR 4 | QTR 5 | QTR 6 | QTR 7 | QTR 8 | QTR 9 | QTR 10 | QTR 11 | QTR 12 |
| RCRA | (Source ID: ILD069973253) | 07/01-09/30/2011 | 10/01-12/31/2011 | 01/01-03/31/2012 | 04/01-06/30/2012 | 07/01-09/30/2012 | 10/01-12/31/2012 | 01/01-03/31/2013 | 04/01-06/30/2013 | 07/01-09/30/2013 | 10/01-12/31/2013 | 01/01-03/31/2014 | 04/01-06/30/2014 |
| | RCRA Facility-Level Status | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- |

Informal Enforcement Actions (5 Years)

| State | Source ID | Type of Action | Lead Agency | Date |
|-------|------------|------------------|-------------|------------|
| CAA | 1703101446 | NOV ISSUED | EPA | 07/15/2014 |
| CAA | 1703101446 | STATE NOV ISSUED | State | 12/28/2010 |

Formal Enforcement Actions (5 Years)

| State | Source ID | Type of Action | Lead Agency | Date | Penalty | Penalty Description |
|-------|------------|----------------------------|-------------|------------|----------|---------------------|
| CAA | 1703101446 | STATE COURT CONSENT DECREE | State | 05/17/2012 | \$15,000 | -- |

ICIS Case History (5 years)

| Primary Law/Section | Case No. | Case Type | Lead Agency | Case Name | Issued/Filed Date | Settlement Date | Federal Penalty | State/Local Penalty | SEP Cost | Comp Action Cost |
|--------------------------|----------|-----------|-------------|-----------|-------------------|-----------------|-----------------|---------------------|----------|------------------|
| No data records returned | | | | | | | | | | |

Environmental Conditions

Water Quality

| Permit ID | Watershed (HUC 8) | Watershed Name (HUC 8) | Watershed (HUC 12) | Watershed Name (HUC 12) | Receiving Waters | Impaired Waters | Combined Sewer System? |
|--------------|-------------------|------------------------|--------------------|-------------------------------------|------------------|-----------------|------------------------|
| 110005837737 | 0404001 | LITTLE CALUMET-GALIEN | 04040010603 | Calumet River-Frontal Lake Michigan | -- | No | -- |

Air Quality

| Non-Attainment Area? | Pollutant(s) |
|----------------------|--------------------|
| Yes | Ozone |
| No | Lead |
| Yes | Particulate Matter |

Pollutants

TRI History of Reported Chemicals Released in Pounds per Year at Site

| TRI Facility ID | Year | Total Air Emissions | Surface Water Discharges | Off-Site Transfers to POTWs | Underground Injections | Releases to Land | Total On-site Releases | Total Off-site Releases |
|--------------------------|------|---------------------|--------------------------|-----------------------------|------------------------|------------------|------------------------|-------------------------|
| No data records returned | | | | | | | | |

TRI Total Releases and Transfers in Pounds by Chemical and Year

| Chemical Name |
|--------------------------|
| No data records returned |

Demographic Profile

Demographic Profile of Surrounding Area (1 Mile)

This section provides demographic information regarding the community surrounding the facility. ECHO compliance data alone are not sufficient to determine whether violations at a particular facility had negative impacts on public health or the environment. Statistics are based upon the 2010 US Census and American Community Survey data, and are accurate to the extent that the facility latitude and longitude listed below are correct. The latitude and longitude are obtained from the EPA Locational Reference Table (LRT) when available.

| | | | | | |
|---|-----------------|------------------------------|-----------------|----------------------------------|--------|
| Radius of Area: | 1 | Land Area: | 52% | Households in Area: | 5,837 |
| Center latitude: | 41.7095 | Water Area: | 8% | Housing Units in Area: | 6,556 |
| Center Longitude: | -87.34175 | Population Density: | 6.997/sq mi. | Households on Public Assistance: | 125 |
| Total Persons: | 19,988 | Percent Minority: | 83% | Persons Below Poverty Level: | 12,446 |
| Race Breakdown | | Persons (%) | | Age Breakdown | |
| White: | 9,680 (48.43%) | Child 5 years and younger: | 1,728 (8.65%) | Persons (%) | |
| African-American: | 1,266 (6.33%) | Minors 17 years and younger: | 6,167 (31.85%) | | |
| Hispanic-Origin: | 16,323 (81.66%) | Adults 18 years and older: | 13,621 (68.15%) | | |
| Asian/Pacific Islander: | 51 (.26%) | Seniors 65 years and older: | 1,868 (9.38%) | | |
| American Indian: | 242 (1.21%) | | | | |
| Other/Multiracial: | 8,748 (43.77%) | | | | |
| Education Level (Persons 25 & older) | | Persons (%) | | Income Breakdown | |
| Less than 9th Grade: | 2,882 (24.27%) | Less than \$15,000: | 1,033 (17.33%) | Households (%) | |
| 9th through 12th Grade: | 1,606 (13.52%) | \$15,000 - \$25,000: | 937 (15.72%) | | |
| High School Diploma: | 3,954 (33.29%) | \$25,000 - \$50,000: | 1,868 (31.33%) | | |
| Some College/2-yr: | 2,305 (19.41%) | \$50,000 - \$75,000: | 1,054 (17.68%) | | |
| B.S./B.A. or More: | 1,129 (9.51%) | Greater than \$75,000: | 1,070 (17.95%) | | |



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

JUL 17 5 2014

REPLY TO THE ATTENTION OF:

James M. Langbehn, Terminal Manager
S.H. Bell Company
10218 South Avenue O
Chicago, Illinois 60617

Re: Notice of Violation
S.H. Bell Company
Chicago, Illinois

Dear Mr. Langbehn:

The U.S. Environmental Protection Agency is issuing the enclosed Notice of Violation (NOV) to S.H. Bell Company (you) under Section 113(a)(1) of the Clean Air Act, 42 U.S.C. § 7413(a)(1). We find that you are violating the Illinois State Implementation Plan at your Chicago, Illinois facility.

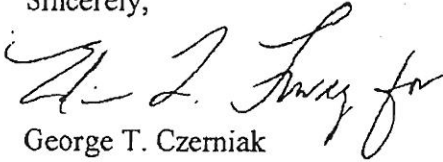
Section 113 of the Clean Air Act gives us several enforcement options. These options include issuing an administrative compliance order, issuing an administrative penalty order and bringing a judicial civil or criminal action.

We are offering you an opportunity to confer with us about the violations alleged in the NOV. The conference will give you an opportunity to present information on the specific findings of violation, any efforts you have taken to comply and the steps you will take to prevent future violations. In addition, in order to make the conference more productive, we encourage you to submit to us information responsive to the NOV prior to the conference date.

Please plan for your facility's technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

The EPA contacts in this matter are Molly Smith, (312) 353-8773, and Katie Owens, (312) 886-6097. You may call either to request a conference. You should make the request within 10 calendar days following receipt of this letter. We should hold any conference within 30 calendar days following receipt of this letter.

Sincerely,



George T. Czerniak
Director
Air and Radiation Division

Enclosure

cc: Eric Jones, Manager
Compliance Unit
Bureau of Air
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62794

7. On April 10, 2006, the Illinois Environmental Protection Agency (IEPA) issued a Federally Enforceable State Operating Permit (FESOP) to S.H. Bell at its 10218 South Avenue O, Chicago, Illinois location, under the Application Number 83020023.
8. Condition Number 2(c) of S.H. Bell's FESOP lists emission limitations for storage piles. Specifically, "no person shall cause or allow fugitive particulate matter emissions from any storage pile to exceed an opacity of 10%, to be measured four feet from the pile surface," pursuant to SIP Rule 212.316(d).
9. Condition Number 9 of S.H. Bell's FESOP states "no person shall cause or allow any visible emissions of fugitive particulate matter from any process, including material handling or storage activity, beyond the property line of the emission source..." pursuant to SIP Rule 212.301.

Findings of Fact

10. S.H. Bell is a bulk material storage handling facility located at 10218 South Avenue O, Chicago, Illinois (the facility).
11. S.H. Bell performs crushing, screening, loading and unloading operations of various materials, 90% of which are manganese-based alloys.
12. EPA inspected the facility on April 25, 2014; May 19, 2014; and May 20, 2014.
13. On each of the three inspections, April 25, 2014; May 19, 2014; and May 20, 2014, EPA inspectors noted dry, dusty roads with heavy truck traffic.
14. At the April 25, 2014 inspection, James Langbehn, S.H. Bell Terminal Manager, stated that S.H. Bell waters its roadways two times each day: in the morning and at 3:00 pm.
15. At the April 25, 2014 inspection, James Langbehn stated that S.H. Bell purchased a water truck one week before the inspection to do additional pile and roadway watering.
16. At the May 19, 2014 inspection, James Langbehn stated that S.H. Bell typically watered its roadway 2 times each hour.
17. At the May 19, 2014 inspection, EPA inspectors witnessed S.H. Bell watering its roads at 11:31 am and 11:52 am.
18. On May 19, 2014, an EPA inspector certified to perform EPA Reference Method 9 conducted visible emission observations on a direct reduced iron (DRI) storage pile at the barge pile loading dock.
19. DRI is a manganese-based alloy.
20. At the May 20, 2014 inspection, two EPA inspectors witnessed fugitive dust crossing the property line at multiple locations at S.H. Bell.

21. At the May 20, 2014 inspection, EPA inspectors witnessed S.H. Bell watering its roads at 7:58 am, 8:16 am, and 8:35 am.
22. At the May 20, 2014 inspection, James Langbehn stated that the water truck operates from 7 am to 3 pm.
23. KCBX Terminals Company (KCBX) operates two bulk storage facilities at 3259 East 100th Street (North Plant) and 10740 South Burley Avenue (South Plant) in Chicago, Illinois. The North and South Plants unload, store, and load coal and petroleum coal that contain trace amounts of manganese. The North Plant is located directly west, across the Calumet River, of S.H. Bell.
24. Analysis of the materials processed by KCBX have demonstrated manganese is present in trace amounts.
25. On February 28, 2014, an air monitor at KCBX North Plant, near the S.H. Bell facility, reported readings of 0.576 microgram per cubic meter concentration of manganese at its North Plant NE monitoring station. The wind on February 28, 2014 was from the south-southeast.
26. The Agency for Toxic Substances and Disease Registry (ATSDR) has identified the inhalation minimal risk level (MRL) for chronic exposure to manganese to be 0.3 $\mu\text{g}/\text{m}^3$. An MRL is an estimate of the daily human exposure to a hazardous substance that is likely to be without appreciable risk of adverse non-cancer health effects over a specified duration of exposure.
27. On April 17, 2014, EPA staff conducted a first round of wipe sampling from home and public spaces in the residential neighborhoods adjacent to the North and South Plants. Eleven wipes were given to the EPA Regional Laboratory for analysis for metals and polycyclic aromatic hydrocarbons.
28. On May 20, 2014, EPA received results from the preliminary wipe sampling conducted April 17, 2014. The wipe sample taken in direct proximity to the S.H. Bell facility, approximately 2,640 feet away, showed the highest concentration of manganese, at 11.5%, as compared to the other 10 samples which ranged in manganese concentration between 2% to 7%.

Violations

29. On April 25, 2014, EPA inspectors noted that normal traffic pattern access areas surrounding storage piles, and throughout the property were not treated with water, oils, or other chemical dust suppressants pursuant to SIP Rule 212.306.
30. From 11:33 am through 11:39 am on May 19, 2014, an observation using Method 9 visible emissions found opacity from a storage pile on the barge pile loading dock to have an opacity average of 12.7%. Opacity readings reached 85% during the 6-minute average. A 12.7% opacity average is in excess of SIP Rule 212.316(d).

31. From 11:45 am through 11:51 am on May 19, 2014, an observation using Method 9 visible emissions found opacity from a storage pile on the barge pile loading dock to have an opacity average of 10.4%. Opacity readings reached 80% during the 6-minute average. A 10.4% opacity average is in excess of SIP Rule 212.316(d).
32. On May 20, 2014, EPA inspectors noted and photographed visible fugitive particulate matter from material handling crossing the western property line beyond the emission source, and at the eastern property line beyond the emission source at the S.H. Bell facility, in violation of SIP Rule 212.301.

Environmental Impact of Violations

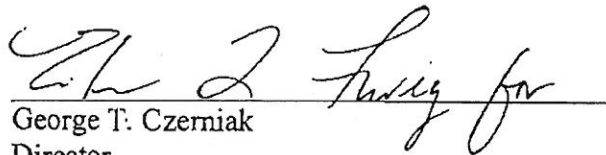
33. These violations have caused or can cause excess emissions of particulate matter.

Particulate Matter: Particulate matter, especially fine particulates contains microscopic solids or liquid droplets, which can get deep into the lungs and cause serious health problems. Particulate matter exposure contributes to:

- irritation of the airways, coughing, and difficulty breathing;
- decreased lung function;
- aggravated asthma;
- chronic bronchitis;
- irregular heartbeat;
- nonfatal heart attacks; and
- premature death in people with heart or lung disease.

Date

7/15/14



George T. Czerniak
Director
Air and Radiation Division

CERTIFICATE OF MAILING

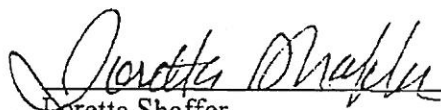
I, Loretta Shaffer, certify that I sent a Notice of Violation, No. EPA-5-14-IL-15, by
Certified Mail, Return Receipt Requested, to:

James M. Langbehn
S.H. Bell Company
10218 South Avenue O
Chicago, Illinois 60617

I also certify that I sent copies of the Notice of Violation by first-class mail to:

Eric Jones, Manager
Compliance Unit
Bureau of Air
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62794

On the 17 day of July 2014.



Loretta Shaffer
Program Technician
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER: 70010320 0006 0186 0064

files a written demand for hearing, the Board will deny the parties' request for relief and hold a hearing. *See* 415 ILCS 5/31(c)(2) (2010); 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk to provide the required notice.

IT IS SO ORDERED.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on April 5, 2012, by a vote of 5-0.

A handwritten signature in cursive script that reads "John T. Therriault". The signature is written in black ink and is positioned above a horizontal line.

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board

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 (2010).

3. At all times relevant to the Complaint, Respondent, a Pennsylvania corporation registered to do business in Illinois, owned and operated a ferrous and nonferrous material processing, storage and transfer facility located at 10218 South Avenue 0, Chicago, Cook County, Illinois 60617 ("Facility"). Emission units at the Facility include screen boxes controlled by building enclosures, a jaw crushing/screening plant controlled by wet suppression at selected transfer points and building enclosure, screener controlled by a building enclosure, bag filling station controlled by a baghouse and building enclosure, box filling station controlled by a baghouse and building enclosure, product transfer (i.e., handling / storage) controlled by building enclosures as appropriate, material unloading (via truck, rail, and barge) controlled by building enclosures as appropriate, railcar loading controlled by a baghouse and building enclosure, wind erosion of stockpiles controlled by water sprays/building enclosure as appropriate, and roadways controlled by watering/sweeping program.

4. On April 10, 2006, the Illinois EPA issued to Respondent a revised Federally Enforceable State Operating Permit ("FESOP") number 83020023. This FESOP contained an expiration date of October 19, 2006.

5. On April 20, 2006, Respondent submitted an application for a renewal of a Lifetime Operating Permit.

6. On May 10, 2006, the Illinois EPA issued a Notice of Incompleteness to Respondent as the application lacked information on the use of enclosures and control devices, sources of

fugitive emissions, emissions, factors, and capture and control efficiencies in order to demonstrate eligibility for a Lifetime Operating Permit. Respondent did not respond to the Notice of Incompleteness and thereafter the FESOP expired.

7. On July 7, 2010, Illinois EPA conducted an unannounced inspection of Respondent and noted that Respondent was operating emission units without the requisite permit. On December 28, 2010, the Illinois EPA issued Violation Notice ("VN") A-2010- 00120 to Respondent for failure to timely renew its FESOP, resulting in operation of a major source without the requisite Clean Air Act Permit Program ("CAAPP") permit.

8. On or about February 15, 2011, Respondent submitted an application for a FESOP to the Illinois EPA.

9. Respondent's permit application is currently under review by the Illinois EPA.

10. By failing to timely submit its FESOP permit renewal application, Respondent now operates a major source without the requisite CAAPP permit.

B. Allegations of Non-Compliance

Complainant and the Illinois EPA contend that the Respondent has violated the following provisions of the Act:

Count I: By operating a CAAPP source without a CAAPP permit, Respondent has violated Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b) (2010).

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 affirmatively

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

On or about February 15, 2011, the Illinois EPA received Respondent's FESOP permit renewal application on CAAPP forms. Respondent has continued to operate under the terms and conditions of the now expired FESOP and has submitted required reports to the Illinois EPA. Further, Respondent worked with the Illinois EPA in order to finalize the FESOP renewal permit.

II. APPLICABILITY

This Stipulation shall apply to and be binding upon the Complainant, the Illinois EPA and the Respondent, and any officer, director, agent, or employee of the Respondent, as well as any successors or assigns of the Respondent. The Respondent shall not raise as a defense to any enforcement action taken pursuant to this Stipulation the failure of any of its officers, directors, agents, employees or successors or assigns to take such action as shall be required to comply with the provisions of this Stipulation.

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

Section 33(c) of the Act, 415 ILCS 5/33(c)(2010), 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 this Stipulation state the following:

1. 1. The Illinois EPA's information gathering responsibilities were hindered by the Respondent's violation.
2. There is social and economic benefit to the facility.
3. Operation of the facility is suitable for the area in which it occurs.
4. Submitting a CAAPP permit renewal application and timely obtaining a CAAPP permit is both technically practicable and economically reasonable.
5. Respondent's renewal application is currently under technical review by the Illinois EPA.

IV. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h)(2010), 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 to this Stipulation state as follows:

1. From October 20, 2006 through the present, Respondent failed to obtain and operates without the requisite CAAPP or FESOP permit issued by the Illinois EPA. However, the Respondent continued to operate in accordance with the terms and conditions of the now expired FESOP permit which also included submitting, in a timely manner, required reports relative to all emission sources operated by the source.

2. Respondent demonstrated an absence of due diligence in complying with the Act, prior to the issuance of the VN letter by the Illinois EPA as evidenced by its failure to timely apply for and obtain the requisite FESOP permit.

3. Any economic benefit attributable to the noncompliance at issue would be minimal.

4. Complainant and the Illinois EPA have determined, based upon the specific facts of this matter, that a penalty of Fifteen Thousand Dollars (\$15,000.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

5. To Complainant's and the Illinois EPA's knowledge, Respondent has no previously

adjudicated violations of the Act.

6. There was no self-disclosure of the violations contained within this referral.
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 Fifteen Thousand Dollars (\$15,000.00) 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
69 West Washington Street
Chicago, Illinois 60602

D. Future Compliance

1. Effective immediately, Respondent shall at all times operate its facility in compliance with the terms of FESOP no. 83020023, which expired October 20, 2006, as amended by construction permit no. 11020023, issued by the Illinois EPA on May 4, 2011, until such time as the Respondent obtains a FESOP renewal permit.

2. Effective immediately upon the issuance of FESOP renewal permit by the Illinois EPA, Respondent shall at all times operate its facility in compliance with all of the terms and conditions of the FESOP renewal permit, including any and all special conditions contained therein.

3. Respondent shall at all times in the future timely submit to the Illinois EPA all permit renewal applications.

4. 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.

5. 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.

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

7. This Stipulation does not serve as a permit issued by the Illinois EPA authorizing operation of the Source and shall not be construed as such.

E. Release from Liability

In consideration of the Respondent's payment of the \$15,000.00 penalty, completion of all activities required hereunder, and upon the Board's approval of this Stipulation, the Complainant and the Illinois EPA release, waive and discharge 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 on January 31, 2012. 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, or entity other than the Respondent.

F. Enforcement and Modification of Stipulation

1. 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 each party to this 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 this Stipulation request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

[Remainder of this page intentionally left blank.]

PEOPLE OF THE STATE OF ILLINOIS,

LISA MADIGAN
Attorney General
State of Illinois

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

FOR THE ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

JOHN J. KIM, Interim Director
Illinois Environmental Protection Agency

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

BY: _____
JOHN J. KIM
Chief Legal Counsel

DATE: _____

DATE: _____

S.H. BELL CO., INC.

BY: John M. Bell / 20 March 2012

Name: JOHN M. BELL

Title: President

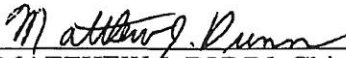
PEOPLE OF THE STATE OF ILLINOIS,


LISA MADIGAN
Attorney General
State of Illinois

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

FOR THE ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

JOHN J. KIM, Interim Director
Illinois Environmental Protection Agency

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

BY: 
JOHN J. KIM
Interim Director

DATE: 3/26/12

DATE: 3/20/12

S.H. BELL CO., INC.

BY: _____

Name: _____

Title: _____