

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS)
ex rel. LISA MADIGAN, Attorney General)
of the State of Illinois,)
))
Complainant,)
))
v.)
))
FLEISCHMANN'S VINEGAR)
COMPANY, INC., a Delaware)
corporation,)
))
Respondent.)

No. 16 PCB
(Air-CAAPP)

NOTICE OF ELECTRONIC FILING

TO: Matthew C. Read
Hodge Dwyer & Driver
3150 Roland Avenue
Springfield, Illinois 62705-5776

PLEASE TAKE NOTICE that today, July 9, 2015, I have filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the following Complaint a true and correct copy of which is attached and hereby served upon you.

Pursuant to 35 Ill. Adm. Code 103.204(f), I am required to state that failure to file an answer to this Complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the Complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney.

NOTIFICATION

YOU ARE HEREBY NOTIFIED that financing may be available through the Illinois Environmental Facilities Financing Act (20 ILCS 3515/1 *et seq.*) to correct the alleged pollution.

THIS FILING IS SUBMITTED ON RECYCLED PAPER

PEOPLE OF THE STATE OF ILLINOIS,
by LISA MADIGAN, Attorney General
of the State of Illinois

BY:



NANCY J. TIKALSKY
Assistant Attorney General
Environmental Bureau
69 W. Washington St., Suite 1800
Chicago, Illinois 60602
(312) 814-8567

Date: July 9, 2015

CERTIFICATE OF SERVICE

I, Nancy J. Tikalsky, an Assistant Attorney General, do certify that a true and correct copy of the Complaint and Notice of Filing were sent by certified mail with return receipt requested to the persons listed on the Notice of Filing on July 9, 2015.

BY:



NANCY J. TIKALSKY

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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 ("Illinois EPA"), complains of Respondent, FLEISCHMANN'S VINEGAR COMPANY, INC. ("Fleischmann's"), as follows:

COUNT I

FAILURE TO TIMELY SUBMIT AN ANNUAL COMPLIANCE CERTIFICATION

1. This count is brought 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 at the request of the Illinois EPA, pursuant to Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(2014).

2. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2014), and charged, *inter alia*, with the duty of enforcing the Act.

3. At all times relevant to this complaint, Respondent Fleischmann's has been and is a Delaware limited liability corporation in good standing and duly authorized to do business in the State of Illinois. Fleischmann owns and operates a vinegar manufacturing facility located at 4801 South Oakley Avenue, Chicago, Cook County, Illinois ("Facility").

4. At all times relevant to this Complaint, emission units at the Facility includes 19 acetators controlled by scrubbers and a gas-fired boiler.

5. At all times relevant to this Complaint, the Respondent operates under Clean Air Act Permit Program ("CAAPP") Permit number 96030002 ("CAAPP Permit") issued on October 2, 2008; a renewal application for this CAAPP permit is pending with the Illinois EPA.

6. No later than May 1, 2014, pursuant to its CAAPP Permit, Respondent was required to submit an Annual Compliance Certification ("ACC") for calendar year 2013.

7. On August 1, 2014, the IEPA issued Violation Notice ("VN") A-2014-00253 to Respondent for failure to submit an ACC for calendar year 2013 to the IEPA. On September 29, 2014, Respondent waived Section 31 of the Act with respect to VN A-2014-00253.

8. On September 11, 2014, or a date better known to Respondent, Respondent submitted its ACC for calendar year 2013 to the IEPA, 134 days late.

9. The Respondent's operation of the Facility is subject to the Act and the Illinois Pollution Control Board rules and regulations for air pollution, which are found in Title 35, Subtitle B, of the Illinois Administrative Code.

10. Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2014), provides as follows:

6. Prohibitions.

a. It shall be unlawful for any person to violate any terms or conditions of a permit issued under this Section, to operate any CAAPP source except in compliance with a permit

issued by the Agency under this Section or to violate any other applicable requirements.

11. Condition 9.8 of CAAPP permit no. 96030002 provides, in part:

Pursuant to Section 39.5(7)(p)(v) of the Act, the Permittee shall submit annual compliance certifications ("ACC"). The compliance certifications shall be submitted no later than May 1 or more frequently as specified in the applicable requirements or by permit condition.

12. Section 3.315 of the Act, 415 ILCS 5/3.315 (2014), provides the following

definition:

"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.

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

14. Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (2014), provides the following definitions:

"CAAPP" means the Clean Air Act Permit Program, developed pursuant to Title V of the Clean Air Act.

"CAAPP Permit" . . . means any permit issued, renewed, amended, modified or revised pursuant to Title V of the Clean Air Act.

"CAAPP source" means any source for which the owner or operator is required to obtain a CAAPP permit pursuant to subsection 2 of this Section.

"Owner or operator" means any person who owns, leases, operates, controls, or supervises a stationary source.

"Stationary Source" means any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any pollutant listed under Section 112(b) of the Clean Air Act.

15. At all times relevant to this Complaint, the Facility is a "CAAPP Source" and "Stationary Source," as those terms are defined in Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (2010).

16. At all times relevant to this Complaint, Fleischmann's has been an "Owner or Operator" of the Facility, a Stationary Source, as that term is defined in Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (2014).

17. By failing to timely submit its ACC as required by its CAAPP Permit for its Facility, Respondent Fleischmann's violated Condition 9.8 of its CAAPP permit no. 96030002, and, thereby, violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2014).

WHEREFORE, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, FLEISCHMANN'S VINEGAR COMPANY, INC., for the following relief:

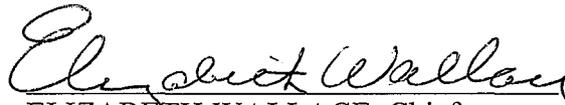
1. Authorize a hearing in this matter at which time Respondent will be required to answer the allegations herein;
2. Find that Respondent has violated Condition 9.8 of its CAAPP permit no. 96030002 and Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2014);
3. Order Respondent to cease and desist from any further violations of Condition 9.8 of CAAPP permit no. 96030002, and, thereby, violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2014);
4. Assess against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, and its CAAPP permit no. 96030002, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of each violation;

5. Order Respondent to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2012), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

6. Grant such other relief as the Board deems appropriate and just.

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

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



ELIZABETH WALLACE, Chief
Environmental Bureau
Assistant Attorney General

Of Counsel:

Nancy J. Tikalsky
Assistant Attorney General
Environmental Bureau
69 W. Washington St., Suite 1800
Chicago, Illinois 60602
(312) 814-8567
ntikalsky@atg.state.il.us

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS)	
<i>ex rel.</i> LISA MADIGAN, Attorney General)	
of the State of Illinois,)	
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Complainant,)	
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v.)	No. 16 PCB
)	(Air-CAAPP)
FLEISCHMANN'S VINEGAR)	
COMPANY, INC., a Delaware)	
corporation,)	
)	
Respondent.)	

NOTICE OF FILING

TO: See Attached Service List

PLEASE TAKE NOTICE that on the 9th day of July, 2015, I filed with the Clerk of the Illinois Pollution Control Board a Stipulation and Proposal for Settlement and a Motion to Request Relief from Hearing Requirement, copies of which are attached hereto and are hereby served upon you.

PEOPLE OF THE STATE OF ILLINOIS
LISA MADIGAN
Attorney General of the
State of Illinois

BY:  _____
 NANCY J. TIKALSKY
 Assistant Attorney General
 Environmental Bureau North
 69 West Washington Street, Suite 1800
 Chicago, Illinois 60602
 312-814-8567

DATE: July 9, 2015

THIS FILING IS SUBMITTED ON RECYCLED PAPER

SERVICE LIST

Mr. Bradley Halloran
Chief Hearing Officer
Illinois Pollution Control Board
100 West Randolph Street, 11th Floor
Chicago, IL 60601
Via email attachment (Brad.Halloran@illinois.gov)

Matthew C. Read
Hodge Dwyer & Driver
3150 Roland Avenue
Springfield, Illinois 62705-5776
via email attachment (mread@hddattorneys.com)

Maureen Wozniak
Illinois Environmental Protection Agency
1021 N. Grand Avenue East
Springfield, IL 62794-9276
Via email attachment (Maureen.wozniak@illinois.gov)

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)	
Respondent.)	

CERTIFICATE OF SERVICE

I, NANCY J. TIKALSKY, an Assistant Attorney General, do certify that I caused to be mailed this 9th day of July, 2015, the foregoing Motion to Request Relief from Hearing, Stipulation and Proposal for Settlement with Respondent Diversified Labeling Solutions, Inc., and Notice of Filing, by electronic transmission or by placing same in an envelope bearing sufficient postage with the United States Postal Service located at 100 W. Randolph, Chicago Illinois, as indicated on service list upon the persons listed on said notice.



 NANCY J. TIKALSKY
 Assistant Attorney General
 Environmental Bureau
 69 W. Washington, Suite 1800
 Chicago, IL 60602
 312-814-8567

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)	
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MOTION TO REQUEST RELIEF FROM HEARING REQUIREMENT

NOW COMES the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and requests relief from the hearing requirement in the above-captioned matter. In support thereof, the Complainant states as follows:

1. On July 9, 2015, a Complaint was filed with the Illinois Pollution Control Board ("Board") in this matter. On July 9, 2015, a Stipulation and Proposal for Settlement was filed with the Board.

2. Section 31(c)(2) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(c)(2) (2014), effective August 1, 1996, allows the parties in certain enforcement cases to request relief from the mandatory hearing requirement where the parties have submitted to the Board a stipulation and proposal for settlement.

3. Section 31(c)(2) of the Act, 415 5/31(c)(2) (2014), provides as follows:
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

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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).

4. No hearing is currently scheduled in the instant case.

5. The Complainant requests the relief conferred by Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2014).

WHEREFORE, the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, 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 of the
State of Illinois

BY: _____


NANCY J. TIKALSKY
Assistant Attorney General
Environmental Bureau North
69 West Washington Street, Suite 1800
Chicago, Illinois 60602
312-814-8567

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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 FLEISCHMANN'S VINEGAR COMPANY, INC. ("Fleischmann's") ("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. On July 9, 2015 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 corporation registered to do business in the State of Illinois.

4. At all times relevant to the Complaint, Respondent owned and operated a vinegar manufacturing facility located at 4801 South Oakley Avenue, Chicago, Cook County, Illinois ("Facility" or "Site").

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 TIMELY SUBMIT AN ANNUAL COMPLIANCE CERTIFICATION**

Violation of Condition 9.8 of its CAAPP permit no. 96030002 and Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2014).

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 within Section I.B herein, and this Stipulation shall not be interpreted as including such admission.

D. Compliance Activities to Date

On September 11, 2014, the Respondent submitted to the Illinois EPA its Annual Compliance Certification for the calendar year 2013.

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).

No change in ownership, corporate status or operator of the Facility shall in any way alter the responsibilities of the Respondent under this Stipulation. In the event that the Respondent proposes to sell or transfer any real property or operations subject to this Stipulation, the Respondent shall notify the Complainant thirty (30) calendar days prior to the conveyance of title, ownership or other interest, including a leasehold interest in the Facility or a portion thereof. The Respondent shall make as a condition of any such sale or transfer, that the purchaser or successor provide to Respondent site access and all cooperation necessary for Respondent to perform to completion any compliance obligation(s) required by this Stipulation. The Respondent shall provide a copy of this Stipulation to any such successor in interest and the

Respondent shall continue to be bound by and remain liable for performance of all obligations under this Stipulation. In appropriate circumstances, however, the Respondent and a proposed purchaser or operator of the Facility may jointly request, and the Complainant, in its discretion, may consider modification of this Stipulation to obligate the proposed purchaser or operator to carry out future requirements of this Stipulation in place of, or in addition to, the Respondent. This provision does not relieve the Respondent from compliance with any regulatory requirement regarding notice and transfer of applicable Facility permits.

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. The Illinois EPA's information gathering responsibilities were hindered by the Respondent's alleged violations thereby threatening human health and the environment.
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. Timely submitting its Annual Compliance Certification in compliance with Condition 9.8 of its CAAPP permit no. 96030002 and Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2014), is both technically practicable and economically reasonable.
5. Respondent has subsequently complied with the Act and CAAPP permit no. 96030002.

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 timely submit its Annual Compliance Certification in compliance with Condition 9.8 of its CAAPP permit no. 96030002 and Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2014). The violation began on May 2, 2014 and was resolved on September 11, 2014.

2. Respondent was diligent in attempting to come back into compliance with the Act and CAAPP permit no. 96030002 once the Illinois EPA notified it of its noncompliance.

3. The civil penalty takes into account any economic benefit realized by the Respondent as a result of avoided or delayed compliance.

4. Complainant has determined, based upon the specific facts of this matter that a penalty of Five Thousand dollars (\$5,000.00) and a "supplemental environmental project" ("SEP") with a settlement value of Five Thousand dollars (\$5,000.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

5. Respondent has had a previously adjudicated violation of the Act. On February 2, 2013, Respondent filed its application for renewal of a CAAPP permit 31 days late in violation of section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b) (2014).

6. Self-disclosure is not at issue in this matter.

7. The settlement of this matter includes a SEP to upgrade exterior lighting to increase lighting efficiency at a cost of \$15,000.00. The proposed lighting upgrades will result in an estimated reduction in electrical consumption of 13,228 kilowatt-hours per year.

8. Respondent and Illinois EPA did not enter into a Compliance Commitment Agreement.

V. TERMS OF SETTLEMENT

A. Penalty Payment

1. The Respondent shall pay a civil penalty in the sum of Five Thousand dollars (\$5,000.00) 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 complete any activity or fails to comply with any response or reporting requirement by the date specified in this Stipulation, the Respondent shall provide notice to the Complainant of each failure to comply with this Stipulation and shall pay stipulated penalties in the amount of \$300.00 per day until such time that compliance is achieved. The Complainant may make a demand for stipulated penalties upon the Respondent for its noncompliance with this Stipulation. However, failure by the Complainant to make this demand shall not relieve the Respondent of the obligation to pay stipulated penalties. All stipulated penalties shall be payable within thirty (30) calendar days of the date the Respondent knows or should have known of its noncompliance with any provision of this Stipulation.

2. 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.

3. 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.

4. 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:

Nancy J. Tikalsky
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602

D. Future Compliance

1. The Respondent shall timely submit all future Annual Compliance Certifications to the Illinois EPA.

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

3. This Stipulation in no way affects the responsibilities of the Respondent to comply with any other federal, state or local laws or regulations, including but not limited to the Act, Board Regulations, and CAAPP permit no. 96030002.

4. The Respondent shall cease and desist from future violations of the Act and CAAPP permit no. 96030002 that were the subject matter of the Complaint.

E. Supplemental Environmental Project

1. In order to promote the goals of the Act to restore, protect and enhance the quality of the environment, the Respondent shall perform a SEP. The settlement value of the SEP is Five Thousand Dollars (\$5,000.00) and will offset penalties sought by the Complainant in this matter. The Parties to the Stipulation agree that this SEP shall consist of an outdoor lighting upgrade of the Site pursuant to Respondent's letter dated May 13, 2015, hereto attached as Attachment A. The Respondent certifies that the SEP reduces the amount of kilowatt-hours at the Site by approximately 13,228 kilowatt-hours per year.

2. The Respondent shall complete the SEP no later than 60 days from the date the Board issues an Order accepting this Stipulation and, within 30 days thereafter, shall submit a project completion report, including a summary of all expenditures, to the contact persons

identified in Section V.G for review and confirmation that the SEP was performed pursuant to this Stipulation. The project completion report shall include the following certification by a responsible corporate official of the Respondent:

I certify under penalty of law that this document was prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted based on my inquiry of those persons directly responsible for gathering the information, and that the information submitted in or accompanying this notification of final compliance is to the best of my knowledge true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and or imprisonment for knowing violations.

3. In the event that the SEP cannot be completed, the Respondent shall pay the settlement value of the SEP (\$5,000.00) as an additional penalty pursuant to the procedures of Section V.C no later than the date by which the SEP should have been completed.

4. By signature on this Stipulation, the Respondent certifies that, as of the date of entry of this Order, it is not required to perform or develop the foregoing SEP by any federal, state or local law or regulation, nor is it required to perform or develop the SEP by agreement or injunctive relief in any other case. The Respondent further certifies that it has not received, and is not presently negotiating to receive credit for, the SEP in any other enforcement action.

5. Any public statement, oral or written, in print, film or other media, made by the Respondent making reference to any SEP shall include the following language:

“This project was undertaken in connection with the settlement of an enforcement action taken by the Illinois Attorney General and the Illinois EPA for alleged violations of the Illinois Environmental Protection Act and regulations promulgated thereunder.”

F. Release from Liability

In consideration of the Respondent's payment of the \$5,000.00 penalty, its commitment to cease and desist as contained in Section V.D.4 above, its performance of the SEP as contained

in Section V.E above, completion of all activities required hereunder, 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 CAAPP permit no. 96030002 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 the Complaint filed on July 9, 2015. 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.

G. 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

Nancy J. Tikalsky
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602

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

As to the Respondent

Matthew C. Read
Hodge Dwyer & Driver
3150 Roland Avenue
Springfield, IL 62705-5776

H. 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.

2. The Parties to the Stipulation may, by mutual written consent, agree to extend any compliance dates or modify the terms of this Stipulation. A request for any modification shall be made in writing and submitted to the contact persons identified in Section V.G. Any such request shall be made by separate document, and shall not be submitted within any other report

or submittal required by this Stipulation. Any such agreed modification shall be in writing, signed by authorized representatives of the Parties to the Stipulation.

I. 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

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

LISA BONNETT, Director

BY: 
ELIZABETH WALLACE, Chief
Assistant Attorney General
Environmental Bureau

BY: 
JOHN J. KIM
Chief Legal Counsel

DATE: 7/6/15

DATE: 6/30/15

RESPONDENT

FLEISCHMANN'S VINEGAR
COMPANY, INC.

Shirain Nohm 

Its S2 V.P. Technology & Regulatory

DATE: 6/18/2015



HODGE DWYER & DRIVER
ATTORNEYS AT LAW

MATTHEW C. READ
E-mail: mread@hddattorneys.com

May 13, 2015

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SETTLEMENT PURPOSES ONLY**

VIA ELECTRONIC MAIL
ORIGINAL VIA CERTIFIED MAIL
(Return Receipt Requested)

Nancy J. Tikalsky, Esq.
Assistant Attorney General
Environmental Bureau
Office of the Illinois Attorney General
69 W. Washington St., Suite 1800
Chicago, Illinois 60602

Re: SEP Proposal
Fleischmann's Vinegar Company, Inc.
Violation Notice A-2014-00253
I.D. 031600AHP

Dear Ms. Tikalsky:

This letter is written on behalf of our client, Fleischmann's Vinegar Company, Inc. ("Fleischmann's"), and follows our May 8, 2015 response to your settlement proposal. In that response, Fleischmann's proposed to resolve this matter by performing a supplemental environmental project ("SEP") and paying a civil penalty that together are valued at \$20,000. The Fleischmann's proposal allocates \$5,000 of the settlement towards a civil penalty and \$15,000 of the settlement towards a lighting efficiency SEP. This letter describes the SEP proposal in greater detail.

Description of Proposed SEP

The proposed SEP would be a pollution prevention/reduction project as it involves a more efficient use of energy. Specifically, Fleischman's proposes to install the following exterior lighting upgrades at its Chicago facility to increase lighting efficiency:

South side of facility:

1. Install two (2) 200-watt, induction, shoebox fixtures to replace two (2) 400-watt, metal-halide shoebox fixtures.
2. Install one (1) 200-watt, induction, shoebox fixture to replace one (1) 400-watt, high-pressure sodium shoebox fixture.
3. Install one (1) 40-watt, induction, wall pack fixture to replace one (1) 150-watt, metal-halide wall pack fixture.
4. Install one (1) 100-watt, induction, wall pack fixture to replace one (1) 150-watt, metal-halide wall pack fixture.
5. Install five (5) 120-watt, induction, flood light fixtures to replace five (5) 300-watt, quartz flood fixtures.

North side of facility:

6. Install three (3) 200-watt, induction, shoebox fixtures to replace three (3) 400-watt, metal-halide shoebox fixtures.
7. Install one (1) 120-watt, induction, wall pack fixture to replace one (1) 250-watt, metal-halide wall pack fixture.
8. Install three (3) 100-watt, induction, flood light fixtures to replace three (3) 150-watt, PAR 38 fixtures.

All locations:

9. Supply and install photocells to replace the existing on a one-for-one basis.
10. Supply and install cords, cord grips, hardware, and other miscellaneous parts to supply a complete and operational installation.

The locations of the replacement fixtures are identified on the map of the Chicago facility in Attachment 1. Pursuant to your request on May 12, 2015, the locations of fixtures replaced in a previous SEP are also depicted on the map.

Expected Environmental Benefit

The proposed lighting upgrades will reduce the wattage necessary to meet the existing lighting needs, thereby reducing the lighting component of the facility's energy demand. The existing lighting fixtures that are targeted for replacement use 5,380 watts. The new light fixtures will supply the same lighting to the areas using 3,020 fewer watts.

When used for an average of 12 hours per day, 365 days per year, the new lighting system will result in an estimated reduction in electrical consumption of 13,228 kilowatt-hours per year. Based on the United States Environmental Protection Agency's ("USEPA") Greenhouse Gas Equivalencies Calculator, which relies on the Emissions & Generation Resource Integrated Database U.S. annual non-baseload CO₂ output emission rate, this reduction will translate into a carbon footprint reduction of 9.1 metric tons of CO₂ per year. See Calculations and References, Electricity Reductions, USEPA, available at <http://www.epa.gov/cleanenergy/energy-resources/refs.html> (last accessed May 13, 2015).

Nancy J. Tikalsky, Esq.

May 13, 2015

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Estimated Cost

The estimated cost of materials and labor for the lighting upgrade at the Chicago facility is \$15,000.

If you should have any questions regarding this submittal, please do not hesitate to contact me.

Sincerely,



Matthew C. Read

MCR:jrs

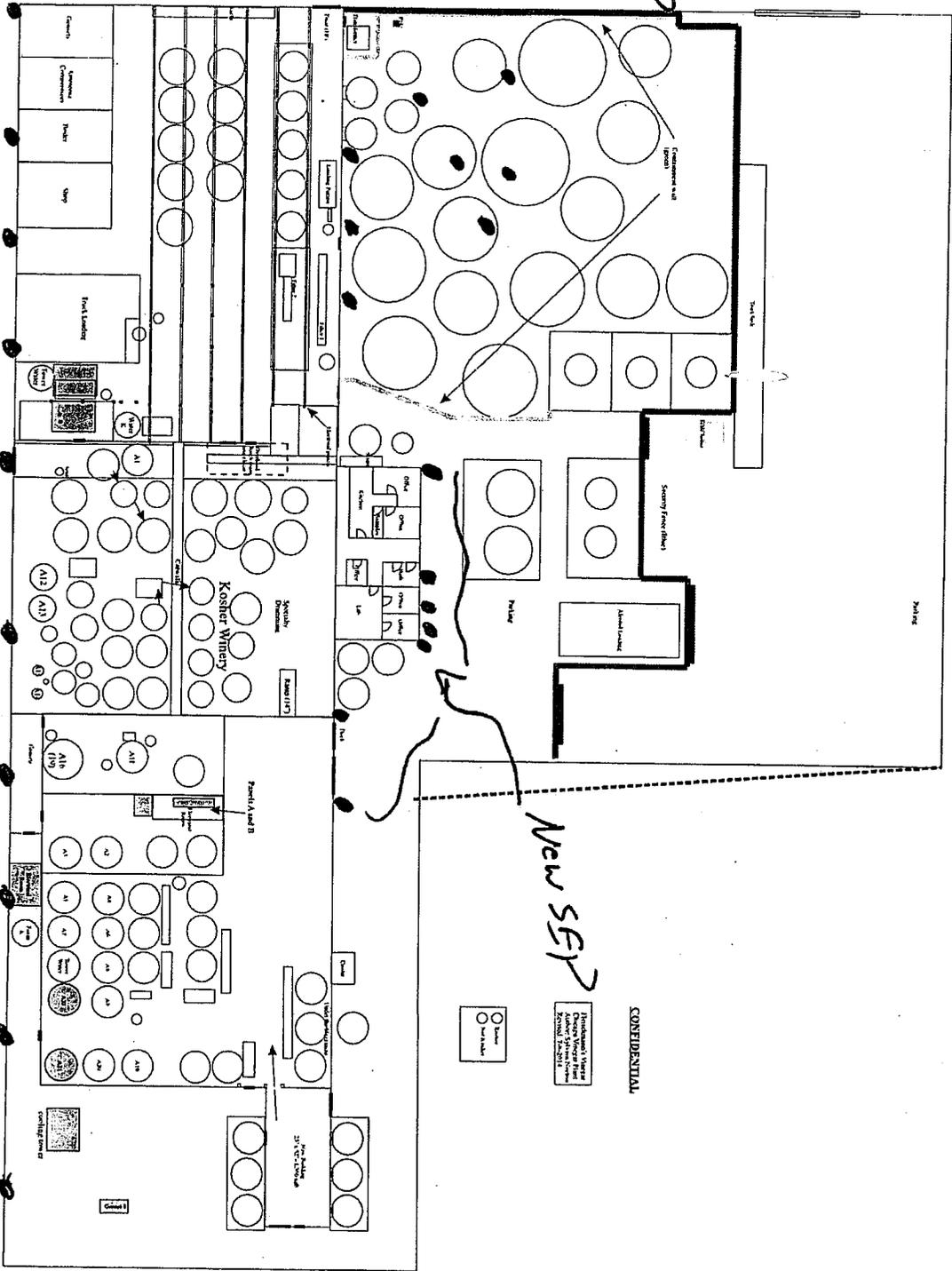
attachment

pc: Maureen Wozniak, Esq. (via electronic mail; w/attachment)

High efficiency
lights
SEP
12/14

• Lights

North



South

New SEP

New SEP

CONFIDENTIAL

Restrooms: Men
Restrooms: Women
Restrooms: Family