

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
by KWAME RAOUL, Attorney)	
General of the State of Illinois,)	
)	
Complainant,)	
)	
v.)	PCB No.
)	
EQUISTAR CHEMICALS, LP, a)	
Delaware Limited Partnership,)	
)	
Respondent.)	

NOTICE OF FILING

TO: See attached service list (VIA ELECTRONIC FILING)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the following Complaint, a copy of which is attached and hereby served upon you. **You may be required to answer the charges of the Complaint at a hearing before the Board, at a date set by the Board.**

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 violations.

Respectfully submitted,

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

By: s/Chelsea Neilson
Chelsea Neilson
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
500 South Second Street
Springfield, IL 62701
cneilson@atg.state.il.us

Date: June 22, 2020

THIS FILING IS SUBMITTED ON RECYCLED PAPER

Service List

For the Respondent

Equistar Chemicals, LP

c/o Jeryl Olson

Seyfarth Shaw LP

JOlson@seyfarth.com

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
by KWAME RAOUL, Attorney)	
General of the State of Illinois,)	
)	
Complainant,)	
)	
v.)	PCB No.
)	
EQUISTAR CHEMICALS, LP, a)	
Delaware Limited Partnership,)	
)	
Respondent.)	

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, complains of Respondent, EQUISTAR CHEMICALS, LP, a Delaware limited partnership, as follows:

COUNT I
VIOLATIONS OF VOLATILE ORGANIC MATERIAL EMISSION LIMITS

1. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS by KWAME RAOUL, Attorney General of the State of Illinois, on his own motion and at the request of the Illinois Environmental Protection Agency (“Illinois EPA”), pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2018).

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 (2018), and charged, inter alia, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board.

3. The Illinois Pollution Control Board (“Board”) is an independent board created by the Illinois General Assembly in Section 5 of the Act, 415 ILCS 5/5 (2018), and charged, inter alia, with the duty of promulgating standards and regulations under the Act.

4. This Complaint is brought pursuant to Section 31 of the Act, 415 ILCS 5/31 (2018), after providing Respondent, Equistar Chemicals, LP, a Delaware Limited Partnership authorized to do business in the State of Illinois, with notice and the opportunity for a meeting with Illinois EPA.

5. Respondent’s headquarters is located in Houston, Texas.

6. At all times relevant to this Complaint, Respondent has been and remains the operator of a chemical manufacturing plant located at 625 East U.S. Highway 36, Tuscola, Douglas County, Illinois (“Facility”). At all times relevant to this Complaint, the Facility has been owned by Lyondell Basell Industries N.V., Respondent’s parent company.

7. Emission units at the Facility include, but are not limited to, an ethyl alcohol production plant, at least one process flare, and two (2) boilers.

8. Respondent’s operations at the Facility emit or are capable of emitting volatile organic material (“VOM”) into the environment.

9. Section 9(a) of the Act, 415 ILCS 5/9(a) (2018), provides as follows:

No person shall:

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

10. Section 3.315 of the Act, 415 ILCS 5/3.315 (2018), 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.

11. Respondent, a limited partnership, is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2018).

12. Section 3.165 of the Act, 415 ILCS 5/3.165 (2018), provides the following definition:

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

13. VOM is a “contaminant,” as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2018).

14. Section 3.115 of the Act, 415 ILCS 5/3.115 (2018), provides the following definition:

“Air pollution” is the presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property.

15. Section 215.301 of the Board Regulations, 35 Ill. Adm. Code 215.301, provides as follows:

No person shall cause or allow the discharge of more than 3.6 kg/hr (8 lbs/hr) of organic material into the atmosphere from any emission source, except as provided in Sections 215.302, 215.303, 215.304 and the following exception: If no odor nuisance exists the limitation of this Subpart shall apply only to photochemically reactive material.

16. Section 211.4690 of the Board Regulations, 35 Ill. Adm. Code 211.4690, provides as follows:

“Photochemically reactive material” means any organic material with an aggregate of more than 20 percent of its total volume composed of the chemical compounds classified below or the composition of which exceeds any of the following individual percentage composition limitations. Whenever any photochemically reactive material or any constituent of any organic material may be classified from its chemical structure into more than one of the above groups of organic materials, it shall be considered as a member of the most reactive group, that is, the group having the least allowable percent of the total organic materials.

A combination of hydrocarbons, alcohols, aldehydes, esters, ethers or ketones having an olefinic or cyclo-olefinic types of unsaturation: 5 percent. This definition does not apply to perchloroethylene or trichloroethylene.

A combination of aromatic compounds with eight or more carbon atoms to the molecule except ethylbenzene: 8 percent.

A combination of ethylbenzene, ketones having branched hydrocarbon structures or toluene: 20 percent.

17. The raw materials used in Respondent’s operations are “photochemically reactive,” as that term is defined in Section 211.4690 of the Board Regulations, 35 Ill. Adm. Code 211.4690.

18. Section 211.6130 of the Board Regulations, 35 Ill. Adm. Code 211.6130, provides the following definition:

“Source” means any stationary source (or any group of stationary sources) that are located on one or more contiguous or adjacent properties that are under common control of the same person (or persons under common control) and that belongs to a single major industrial grouping

19. Section 211.6370 of the Board Regulations, 35 Ill. Adm. Code 211.6370, provides the following definition:

“Stationary source” means any building, structure, facility, or installation that emits or may emit any air pollutant.

20. The Facility is a “source” and a “stationary source,” as those terms are defined, respectively, in Sections 211.6130 and 211.6370 of the Board Regulations, 35 Ill. Adm. Code 211.6130 and 211.6370.

21. By a report dated September 4, 2018, Respondent informed Illinois EPA that, on August 5, 2018, the Facility experienced a total power loss, resulting in a release of 1,602 pounds of VOM to the atmosphere over an estimated 43 minutes.

22. By a report dated October 17, 2018, Respondent informed Illinois EPA that, on September 17, 2018, both boilers at the Facility failed, resulting in a release of 8,693 pounds of VOM to the atmosphere over an estimated 13 minutes.

23. By a report dated October 17, 2018, Respondent also informed Illinois EPA that, on September 27, 2018, a leaking vacuum breaker resulted in a release of 4.67 pounds of VOM to the atmosphere over an estimated 30 minutes.

24. The releases described in paragraphs 20 through 22 are summarized in the table below:

Date of Uncontrolled Release	VOM Emissions Limit	VOM Released
8/5/18	8 lbs/hr	1,602 lbs (43 minutes)
9/17/18	8 lbs/hr	8,693 lbs (13 minutes)
9/27/18	8 lbs/hr	4.67 lbs (30 minutes)

25. By causing or allowing VOM emissions to enter the atmosphere from emission units in an amount greater than 8 lbs/hr, Respondent violated Section 215.301 of the Board Regulations, 35 Ill. Adm. Code 215.301, and thereby violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2018).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Board enter an order against Respondent, EQUISTAR CHEMICALS, LP, a Delaware Limited Partnership, with respect to Count I:

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

B. Finding that Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2018), and Section 215.301 of the Board Regulations, 35 Ill. Adm. Code 215.301;

C. Ordering Respondent to cease and desist from any future violations of the Act and associated Regulations;

D. Assessing against Respondent a civil penalty in the amount of Fifty Thousand Dollars (\$50,000.00) for each and every violation of the Act and pertinent regulations, with an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2018); and

E. Granting such other relief as the Board deems appropriate and just.

COUNT II
VIOLATION OF CLEAN AIR ACT PERMIT PROGRAM (CAAPP) PERMIT
CONDITIONS

1-16. Complainant realleges and incorporates herein by reference paragraphs 1 through 7, 9, 10, 14 through 16, and 20 through 23 of Count I as paragraphs 1 through 16 of this Count II.

17. Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), provides, in pertinent part, 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. All terms and conditions of a permit issued under this Section are enforceable by USEPA and citizens under the Clean Air Act, except those, if any, that are specifically designated as not being federally enforceable in the permit pursuant to paragraph (m) of subsection 7 of this Section.

18. Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (2018), provides the following definitions:

“CAAPP” means the Clean Air Act Permit Program developed pursuant to Title V of the Clean Air Act.

“CAAPP Permit” or “permit” (unless the context suggests otherwise) 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.

“Major Source” means a source for which emissions of one or more air pollutants meet the criteria for major status pursuant to paragraph 2(c) of this Section.

“Source” means any stationary source (or any group of stationary sources) that are located on one or more contiguous or adjacent properties that are under common control of the same person (or persons under common control) and that belongs to a single major industrial grouping. . . .

“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. . . .

“Regulated Air Pollutant” means the following:

* * *

(1) Nitrogen oxides (NO_x) or any volatile organic compound.

* * *

19. Respondent's Facility emits volatile organic compounds ("VOC," also known as VOM), a "regulated air pollutant" as defined by Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (2018).

20. The Facility emits VOM, a regulated air pollutant, and is therefore a "stationary source," as that term is defined in Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (2018).

21. Respondent operates the Facility, and is therefore an "owner or operator," as that term is defined in Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (2018).

22. Section 39.5(2) of the Act, 415 ILCS 5/39.5(2) (2018), provides in pertinent part as follows:

a. Sources subject to this Section shall include:

i. Any major source as defined in paragraph (c) of this subsection.

* * *

c. For purposes of this Section the term "major source" means any source that is:

* * *

ii. A major stationary source of air pollutants, as defined in Section 302 of the Clean Air Act, that directly emits or has the potential to emit, 100 tpy or more of any air pollutant subject to regulation (including any major source of fugitive emissions of any such pollutant, as determined by rule by USEPA).

* * *

23. On or before August 23, 2018, on a date better known to Respondent, Respondent submitted to the Illinois EPA its annual emission report ("AER") for calendar year 2017. The 2017 AER report, Respondent stated that it had emitted at least 291.95 tons of VOM from the Facility.

24. By emitting more than 100 tons of VOM in a year, Respondent is a "major source" as defined in Section 39.5(2)(c)(ii) of the Act, 415 ILCS 5/39.5(2)(c)(ii) (2018).

25. On October 17, 2016, Illinois EPA issued Clean Air Act Permit Program (“CAAPP”) permit number 96020121 (“Permit”) to Respondent.

26. Condition 4.1.2(d)(i)(F) of the Permit provides as follows:

F. Pursuant to 35 IAC 215.301, the Permittee shall not allow the discharge of more than 8 lb/hr of organic material from the emission units specified Condition 4.1.1, except as provided for in 35 IAC 215.302. If no odor nuisance exists, then the 8 lb/hr limitation shall apply only to photochemically reactive material as defined in 35 IAC 211.4690.

I. Pursuant to 35 IAC 215.302(c), emissions of organic material in excess of 8 lbs/hr from the alcohol plant are allowable if such emissions are controlled by any other pollution control equipment approved by the Illinois EPA capable of reducing by 85% or more the uncontrolled organic material that would otherwise be emitted to the atmosphere. The Process Flare (Formerly West Flare) has been approved by the Illinois EPA.

27. By causing or allowing uncontrolled VOM emissions from the Facility to enter the atmosphere in an amount greater than 8 lbs/hr, Respondent violated Condition 4.1.2(d)(i)(F) of the Permit, and thereby violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Board enter an order against Respondent, EQUISTAR CHEMICALS, LP, a Delaware Limited Partnership, with respect to Count II:

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

B. Finding that Respondent has violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 4.1.2(d)(i)(F) of the Permit;

C. Ordering Respondent to cease and desist from any future violations of the Act, associated Regulations, and conditions of its Permit;

D. Assessing a civil penalty against Respondent of Ten Thousand Dollars (\$10,000.00) for each day of violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.6(6)(a) (2018), and Condition 4.1.2(d)(i)(F) of the Permit, pursuant to Section 42(b)(5) of the Act, 415 ILCS 5/42(b)(5) (2018); and

E. Granting such other relief as the Board deems appropriate and just.

COUNT III
OPERATION OF PROCESS FLARE WITH VISIBLE EMISSIONS

1-19. Complainant realleges and incorporates herein by reference paragraphs 1 through 19 of Count I as paragraphs 1 through 19 of this Count III.

20. Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2018), provides as follows:

(d) No person shall:

(1) violate any provisions of Sections 111, 112, 165 or 173 of the Clean Air Act, as now or hereafter amended, or federal regulations adopted pursuant thereto;

21. Title 40 of the Code of Federal Regulations (“C.F.R.”), Part 60, was adopted pursuant to Section 111 of the Clean Air Act, 42 U.S.C. § 7411, as part of the establishment of New Source Performance Standards (“NSPS”). The standards of 40 C.F.R. Part 60 are therefore enforceable in the State of Illinois pursuant to Section 9.1 of the Act, 415 ILCS 5/9.1 (2018).

22. The NSPS regulations applicable to the Alcohol Plant at the Facility include the standards, control, monitoring, testing, reporting and recordkeeping requirements found in 40 C.F.R. Subpart Kb (Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984); Subpart VV (Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for Which Construction, Reconstruction, or Modification Commenced After January 5, 1981, and on or

Before November 7, 2006); and Subpart NNN (Standards of Performance for Volatile Organic Compound (VOC) from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations).

23. Pursuant to Section 111(b) of the Clean Air Act, 42 U.S.C. § 7411(b), EPA has also promulgated NSPS General Provisions, codified at 40 C.F.R. Part 60, Subpart A, §§ 60.1 - 60.19.

24. Section 60.18 of the NSPS General Provisions, 40 C.F.R. § 60.18(c)(1), provides as follows:

(a) *Introduction.*

(1) This section contains requirements for control devices used to comply with applicable subparts of 40 CFR parts 60 and 61

* * *

(c)

(1) Flares shall be designed for and operated with no visible emissions as determined by the methods specified in paragraph (f), except for periods not to exceed a total of 5 minutes during any 2 consecutive hours.

25. The Facility's Alcohol Plant utilizes a flare as a pollution control device to comply with NSPS regulations.

26. By a report dated September 4, 2018, Respondent informed Illinois EPA that, on August 5, 2018, the Facility had experienced a total power loss, resulting in the Facility's flare emitting smoke for a period of 24 hours.

27. By operating the Facility's process flare with visible emissions for a period of 24 hours Respondent violated Section 60.18 of the NSPS General Provisions, 40 C.F.R. § 60.18(c), thereby violating Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2018).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Board enter an order against Respondent, EQUISTAR CHEMICALS, LP, a Delaware Limited Partnership, with respect to Count III:

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

B. Finding that Respondent has violated Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2018);

C. Ordering Respondent to cease and desist from any future violations of the Act and associated Regulations;

D. Assessing a civil penalty against Respondent in the amount of Fifty Thousand Dollars (\$50,000.00) for each and every violation of Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2018), with an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2018); and

[THE REMAINDER OF THIS PAGE LEFT BLANK]

E. Granting such other relief as the Board deems appropriate and just.

Respectfully Submitted,

PEOPLE OF THE STATE OF ILLINOIS,
by KWAME RAOUL,
Attorney General of the
State of Illinois

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

By: /s/ Andrew Armstrong
ANDREW ARMSTRONG, Chief
Environmental Bureau
Assistant Attorney General

Of Counsel
CHELSEA K. NEILSON, # 6322619
Assistant Attorney General
500 South Second Street
Springfield, IL 62706
(217) 557-5767
cneilson@atg.state.il.us
ebs@atg.state.il.us

Dated: June 22, 2020

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF)	
ILLINOIS, by KWAME RAOUL,)	
Attorney General of the State of Illinois,)	
)	PCB No.
Complainant,)	
)	
v.)	
)	
EQUISTAR CHEMICALS, LP, a)	
Delaware Limited Partnership,)	
)	
Respondent.)	

STIPULATION AND PROPOSAL FOR SETTLEMENT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, the Illinois Environmental Protection Agency (“Illinois EPA”), and EQUISTAR CHEMICALS, LP, a Delaware limited partnership, (“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 except as otherwise provided herein. It is the intent of the Parties to the Stipulation that it be a final adjudication of this matter.

I. STATEMENT OF FACTS

A. Parties

1. Contemporaneously with this Stipulation, a Complaint was filed on behalf of the PEOPLE OF THE STATE OF ILLINOIS by KWAME RAOUL, Attorney General of the State of Illinois, on his own motion and at the request of the Illinois Environmental Protection Agency

("Illinois EPA"), pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2018).

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 (2018).

3. At all times relevant to the Complaint, Respondent was and is a Delaware Limited Partnership authorized to transact business in the State of Illinois.

4. At all times relevant to the Complaint, Respondent has been and remains the owner and operator of a chemical manufacturing plant located at 625 East U.S. Highway 36, Tuscola, Douglas County, Illinois ("Facility"). At all times relevant to this Complaint, LyondellBasell Industries N.V. has been the ultimate parent company of Equistar.

5. Respondent's operations at the Facility emit or are capable of emitting volatile organic material ("VOM") into the environment. Emission units at the Facility include, but are not limited to, an ethyl alcohol production plant, at least one process flare, and two (2) boilers.

6. On September 4, 2018, Respondent submitted a deviation report informing Illinois EPA that, on August 5, 2018, the Facility experienced a total power loss, resulting in a release of 1,602 pounds of VOM to the atmosphere over an estimated 43 minutes.

7. On October 17, 2018, Respondent submitted a deviation report informing Illinois EPA that, on September 17, 2018, both boilers at the Facility failed, resulting in a release of 8,693 pounds of VOM to the atmosphere over an estimated 13 minutes.

8. On October 17, 2018, Respondent submitted a deviation report informing Illinois EPA that, on September 27, 2018, a leaking vacuum breaker resulted in a release of 4.67 pounds of VOM to the atmosphere over an estimated 30 minutes.

B. Allegations of Non-Compliance

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

- Count I: Violations of Volatile Organic Material Emission Limits
415 ILCS 5/9(a)
35 III. Adm. Code 215.301
- Count II: Violation of Clean Air Act Permit Program (CAAPP) Permit Conditions
415 ILCS 5/39.5(6)(a)
Condition 4.1.2(d)(i)(F) of the Permit
- Count III: Operation of Process Flare with Visible Emissions
415 ILCS 519.1(d)(1)

C. Admission of Violations

The Respondent neither admits nor denies the violations alleged in the Complaint filed in this matter and referenced within Section I.B herein.

D. Compliance Activities to Date

In May 2019, Respondent revised and updated its preventative maintenance plan for the transformers. In September 2019, Respondent replaced all the fuses in the transformers. The Process Flare returned to compliance on August 6, 2018.

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 (2018).

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

Section 33(c) of the Act, 415 ILCS 5/33(c) (2018), 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 states the following:

1. VOM emissions occurred as a result of the deviations.
2. The Facility provides social and economic benefit.
3. Operation of the Facility was and is suitable for the area in which it is located, so

long as it is operated in compliance with the Act and Board regulations.

4. Complainant asserts that compliance with the Act and Board regulations is both technically practicable and economically reasonable.

5. Respondent is currently in compliance with the Act and the Board regulations.

IV. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h) (2018), 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 Complainant to the Stipulation states as follows:

1. Respondent released more than 8 lbs/hour of VOM into the atmosphere on August 5, 2018, September 17, 2018, and September 27, 2018 in excess of Board regulations and provisions of the source's CAAPP permit. Equistar also operated its flare with visible smoke for a 24-hour period in violation of NSPS provisions. The Board's regulations, NSPS, and the CAAPP permit conditions are of programmatic significance to the Illinois EPA.

2. Respondent was diligent in reducing emissions to permitted and regulatory levels and in responding to the Section 31 process.

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 One Hundred Twenty Thousand Dollars (\$120,000.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

5. To Complainant's knowledge, Respondent has no previously adjudicated violations of the Act for this Facility. Respondent entered into an Agreed Consent Order, 2018CH87, in the Circuit Court for Grundy County, to address the release of VOM in excess of 8 lbs/hour on August 23, 2018 for its facility located in Morris, Illinois.

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

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

8. Illinois EPA and the Respondent did not enter into a Compliance Commitment Agreement for this matter.

V. TERMS OF SETTLEMENT

A. Penalty Payment

1. The Respondent shall pay a civil penalty in the sum of One Hundred Twenty Thousand Dollars (\$120,000.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

B. 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

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:

Chelsea K. Neilson
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
500 South Second Street
Springfield, IL 62706

D. Future Compliance

1. In addition to any other authorities, the Illinois EPA, its employees and representatives, and the Attorney General, his 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, his employees and representatives, may take photographs, samples, and collect information, as they deem necessary.

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

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

E. Release from Liability

In consideration of the Respondent's payment of the \$120,000.00 penalty, its commitment to cease and desist as contained in Section V.D.3 above, and upon the Board's approval of this Stipulation, the Complainant releases, waives and discharges the Respondent from any further liability or penalties for the violations of the Act and Board regulations that were the subject matter of the Complaint herein. The release set forth above does not extend to any matters other than those expressly specified in Complainant's Complaint filed contemporaneously with this Stipulation. The Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against the Respondent with respect to all other matters, including but not limited to, the following:

- a. criminal liability;

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

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

F. Enforcement of Stipulation

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

G. Execution of Stipulation

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

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


PEOPLE OF THE STATE OF ILLINOIS,

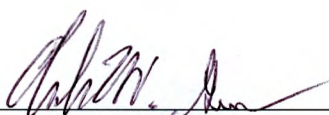
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

KWAME RAOUL
Attorney General
State of Illinois

JOHN J. KIM, Director
Illinois Environmental Protection Agency

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

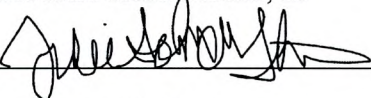
By: 
ANDREW ARMSTRONG, Chief
Environmental Bureau
Assistant Attorney General

By: 
CHARLES W. GUNNARSON
Chief Legal Counsel

Date: 06/18/2020

Date: 6/10/2020

EQUISTAR CHEMICALS, LP

By: 
Date: June 5, 2020

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
by KWAME RAOUL, Attorney)
General of the State of Illinois,)
)
Complainant,)
)
v.) PCB No.
)
EQUISTAR CHEMICALS, LP, a)
Delaware Limited Partnership,)
)
Respondent.)

**MOTION FOR RELIEF FROM HEARING REQUIREMENT
AND NOTICE OF ELECTRONIC SERVICE**

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, and pursuant to Section 31(c)(2) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31(c)(2) (2018), moves that the Illinois Pollution Control Board (“Board”) grant the parties in the above-captioned matter relief from the hearing requirement imposed by Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2018). In support of this motion, Complainant states as follows:

1. The Complainant in this matter alleges violations of Section 9(a), Section 9.1(d)(1), and Section 39.5(6)(a) of the Act, 415 ILCS 5/9(a), 5/9.1(d)(1) and 5/39.5(6)(a) (2018), Section 215.301 of the Board Regulations, 35 Ill. Adm. Code 215.301, and Condition 4.1.2(d)(i)(F) of the Permit.
2. Complainant is filing the Complaint with the Board simultaneously with this Motion and a Stipulation and Proposal for Settlement.
3. The Respondent agrees to accept service of the Complaint via electronic mail.
4. The parties have reached agreement on all outstanding issues in this matter.

5. This agreement is presented to the Board in a Stipulation and Proposal for Settlement filed this same date.

6. All parties agree that a hearing on the Stipulation and Proposal for Settlement is not necessary, and respectfully request relief from such a hearing as allowed by Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2018).

WHEREFORE, the Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby requests that the Board grant this motion for relief from the hearing requirement set forth in Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2018).

Respectfully Submitted,

PEOPLE OF THE STATE OF ILLINOIS,
by KWAME RAOUL,
Attorney General of the
State of Illinois

By: /s/ Chelsea K. Neilson
CHELSEA K. NEILSON, # 6322619
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
500 South Second Street
Springfield, IL 62706
(217) 557-5767
cneilson@atg.state.il.us
ebs@atg.state.il.us

Dated: June 22, 2020

CERTIFICATE OF SERVICE

I, Chelsea Neilson, an Assistant Attorney General, certify that on the 22nd day of June, 2020, I caused to be served by Electronic Mail the foregoing Notice of Filing, Complaint, Stipulation and Proposal for Settlement, Motion for Relief from Hearing Requirements and Certificate of Service to the parties named on the attached Service List and listed below:

Equistar Chemicals, LP
c/o Jeryl Olson
Seyfarth Shaw LP
JOlson@seyfarth.com

s/Chelsea Neilson
Chelsea Neilson
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
500 S. Second Street
Springfield, IL 62701
(217)782-9061
cneilson@atg.state.il.us