

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB No. 20-
	)	(Enforcement_____)
LAWRENCE FOODS, INC.,	)	
an Illinois corporation,	)	
	)	
Respondent.	)	

**NOTICE OF FILING**

To: Molly Snittjer  
Nijman Franzetti LLP  
10 S LaSalle St. #3600  
Chicago, Illinois 60603  
ms@nijmanfranzetti.com

PLEASE TAKE NOTICE that on the 29<sup>th</sup> day of October, 2020, I filed with the Clerk of the Illinois Pollution Control Board a Complaint, Motion for Relief from Hearing Requirement and Notice of Electronic Service, and Stipulation and Proposal for Settlement, copies of which are attached hereto and are hereby served upon you.

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

By: /s/ Daniel I. Rottenberg  
DANIEL I. ROTTENBERG  
Assistant Attorney General  
Environmental Bureau North  
69 W. Washington Street, Suite 1800  
Chicago, IL 60602  
(312) 814-3816  
Primary: [drottenberg@atg.state.il.us](mailto:drottenberg@atg.state.il.us)  
Secondary: [mcacaccio@atg.state.il.us](mailto:mcacaccio@atg.state.il.us)

**CERTIFICATE OF SERVICE**

I, DANIEL I. ROTTENBERG, an Assistant Attorney General, do certify that I caused to be mailed this 29<sup>th</sup> day of October, 2020, the foregoing Complaint, Motion for Relief from Hearing Requirement and Notice of Electronic Service, Stipulation and Proposal for Settlement and Notice of Filing with Respondent, Lawrence Foods, Inc., by electronic mail with receipt notification requested to the person listed on the Notice of Filing on October 29, 2020.

/s/ Daniel I. Rottenberg  
DANIEL I. ROTTENBERG  
Assistant Attorney General  
Environmental Bureau  
69 W. Washington Street, Suite 1800  
Chicago, IL 60602  
(312) 814-3816

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

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Respondent.	)	

**COMPLAINT**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois (“Complainant”), complains of the Respondent, LAWRENCE FOODS, INC., an Illinois corporation (“Respondent”), as follows:

**COUNT I**

**FAILURE TO TIMELY SUBMIT COMPLETE AND ACCURATE ANNUAL EMISSIONS REPORT**

1. This Complaint 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”), against Respondent, pursuant to 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), and is charged, *inter alia*, with the duty of enforcing the Act.

3. At all times relevant to this Complaint, Lawrence Foods has been and is an Illinois corporation authorized to transact business in the State of Illinois.

4. From 1946, or on a date or dates better known to Respondent, through the date of filing of this Complaint, Respondent has owned and operated a bakery ingredient manufacturing facility located at 2200 Lunt Avenue, Elk Grove Village, Cook County, Illinois (“Facility”).

5. The Facility produces bakery ingredients for commercial food manufacturers, in-store supermarket bakeries, and foodservice operators.

6. Respondent owns and operates four boilers at the Facility. The boilers emit nitrogen oxides, particulate matter, volatile organic compounds, and carbon monoxide into the environment.

7. 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.

8. 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.

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

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

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

11. Nitrogen oxides, particulate matter, volatile organic compounds, and carbon monoxide are “contaminants” as that term is defined by Section 3.165 of the Act, 415 ILCS 5/3.165 (2018).

12. Section 201.302(a) of the Illinois Pollution Control Board (“Board”) Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), provides as follows:

The owner or operator of any emission unit or air pollution control equipment meeting the applicability criteria contained in 35 Ill. Adm. Code 254.102 shall submit to the Agency as a minimum, annual reports detailing the nature, specific emission units and total annual quantities of all specified air contaminant emissions; provided, however, that the Agency may require more frequent reports when necessary to accomplish the purposes of the Act and this Chapter.

13. Section 254.102(b) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.102(b), provides as follows:

Subpart C of this Part applies to the owner or operator of any source of regulated air pollutants required to have an operating permit in accordance with 35 Ill. Adm. Code 201 that is not subject to subsection (a) of this Section.

14. Respondent is required to have an operating permit in accordance with 35 Ill. Adm. Code 201, and therefore meets the applicability criteria contained in Section 254.102(b) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.102(b).

15. Section 254.132(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a), provides as follows:

Failure to file a complete Annual Emissions Report by the applicable deadlines prescribed in Section 254.137(a) of this Subpart shall be a violation of this Part and 35 Ill. Adm. Code 201.302(a).

16. Section 254.137(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.137(a), provides as follows:

All Annual Emissions Reports are due by May 1 of the year following the calendar year in which the emissions took place.

17. Section 211.4370 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.4370, provides the following definition:

“Owner or operator” means any person who owns, operates, leases, controls, or supervises a source, an emission unit or air pollution control equipment.”

18. Respondent is an “owner or operator” as that term is defined by Section 211.4370 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.4370.

19. Section 211.1950 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.1950, provides the following definition:

“Emission unit” means any part or activity at a stationary source that emits or has the potential to emit any air pollutant.”

20. Section 211.6370 of the Board Air Pollution 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.

21. Section 211.370 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.370, provides the following definition:

“Air pollutant” means an air pollution agent or combination of such agents, including any physical, chemical, biological, radioactive (including source material, special nuclear material, and byproduct material) substance or matter which is emitted into or otherwise enters the atmosphere. Such term includes any precursors to the formation of any air pollutant, to the extent that the relevant statute or rule has identified such precursor or precursors for particular purpose for which the term “air pollutant” is used.

22. The Facility is a “stationary source” comprised of “emission units” that emit “air pollutants” as those terms are defined in Sections 211.6370, 211.1950, and 211.370, respectively, of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.6370, 211.1950, and 211.370.

23. From 1993, or on a date or dates better known to Respondent, Respondent, as the owner or operator of emissions units, is required pursuant to Section 201.302(a) of the Board Air

Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Sections 254.132(a) and 254.137(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a) and 254.137(a), to submit Annual Emissions Reports (“AERs”) to the Illinois EPA each year by May 1 for the preceding calendar year.

24. Respondent submitted to the Illinois EPA its AER for calendar year 2018 on October 17, 2019, 169 days late.

25. By failing to timely submit a complete and accurate AER for calendar year 2018, Respondent violated Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a). Respondent thereby violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2018).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, LAWRENCE FOODS, INC., an Illinois corporation, with respect to Count I:

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

2. Finding that Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2018), and Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a);

3. Ordering the Respondent to cease and desist from any future violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2018), and Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a);

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

4. Taxing all costs in this action, including, but not limited to, attorney, expert witness and consultant fees against Respondent; and

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

## COUNT II

### CONSTRUCTING AN EMISSION SOURCE WITHOUT A PERMIT

1-10. Complainant realleges and incorporates by reference paragraphs 1 through 6 and 8 through 11 of Count I as paragraphs 1 through 10 of this Count II.

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

No person shall:

\* \* \*

- (b) Construct, install, or operate any equipment, facility, vehicle, vessel, or aircraft capable of causing or contributing to air pollution or designed to prevent air pollution, of any type designated by board regulations,
- (1) without a permit granted by the Agency unless otherwise exempt by this Act or Board regulations or
  - (2) in violation of any conditions imposed by such permit

12. 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.

13. The boilers at the Facility are capable of causing or contributing to air pollution because they emit or are capable of emitting contaminants into the atmosphere 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.

14. In 2011, on a date or dates better known to Respondent, Respondent constructed a new boiler (“New Boiler”) without first obtaining a construction permit issued by Illinois EPA.



15. By constructing the New Boiler without a construction permit issued by the Illinois EPA, Respondent violated Section 9(b) of the Act, 415 ILCS 9(b) (2018).

16. Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142, provides as follows:

No person shall cause or allow the construction of any new emission source or any new air pollution control equipment, or cause or allow the modification of any existing emission source or air pollution control equipment, without first obtaining a construction permit from the Agency, except as provided in Section 201.146 or Section 201.170(b) of this Part.

17. Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102, contains the following definitions:

“Air Contaminant”: Any solid, liquid, or gaseous matter, any odor or any form of energy that is capable of being released into the atmosphere from an emission source.

“Construction”: Commencement of on-site fabrication, erection or installation of an emission source or of air pollution control equipment.

“Emission Source”: Any equipment or facility of a type capable of emitting specified air contaminants to the atmosphere.

“New Emission Source”: Any emission source, the construction or modification of which is commenced on or after April 14, 1972.

“Specified Air Contaminant”: Any air contaminant as to which this Subtitle contains emissions standards or other specific limitations and any contaminant regulated in Illinois pursuant to Section 9.1 of the Act.

18. The installation of the New Boiler at the Facility constituted “construction” as that term is defined by Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102.

19. The New Boiler, which is capable of emitting “air contaminants” and “specified air contaminants,” is an “emission source” as that term is defined by Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102.

20. The New Boiler was constructed at the Facility in 2011, and therefore constitutes a “new emission source” as that term is defined in Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102.

21. Respondent was therefore required to obtain a construction permit for the New Boiler pursuant to Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142.

22. By causing or allowing the construction of the New Boiler at the Facility without applying for and obtaining from the Illinois EPA a construction permit, Respondent violated Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, LAWRENCE FOODS, INC., an Illinois corporation, with respect to Count II:

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

2. Finding that the Respondent has violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2018), and Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142;

3. Ordering the Respondent to cease and desist from any future violations of Section 9(b) of the Act, 415 ILCS 5/9(b) (2018), and Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142;

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

5. Taxing all costs in this action, including, but not limited to, attorney, expert witness and consultant fees against Respondent; and

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

### **COUNT III**

#### **OPERATING AN EMISSION SOURCE WITHOUT A PERMIT**

1-21. Complainant realleges and incorporates by reference paragraphs 1 through 6 and 8 through 11 of Count I and paragraphs 11 through 21 of Count II as paragraphs 1 through 21 of this Count III.

22. On December 9, 2019, Respondent submitted to the Illinois EPA an application for a construction permit for the New Boiler and a Registration of Smaller Sources (ROSS) application for the Facility.

23. On January 9, 2020, Illinois EPA denied Respondent's application for a construction permit because a construction permit was required prior to constructing the New Boiler.

24. On January 24, 2020, Illinois EPA issued to Respondent a Registration Confirmation that the Facility had been registered in the Registration of Smaller Sources (ROSS) Program.

25. Section 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.143, provides as follows:

No person shall cause or allow the operation of any new emission source or new air pollution control equipment of a type for which a construction permit is required by Section 201.142 without first obtaining an operating permit from the Agency, except for such testing operations as may be authorized by the construction permit. Applications for operating permits shall be made at such times and contain such information (in addition to the information required by Section 201.157) as shall be specified in the construction permit.

26. Respondent was required to obtain a construction permit for the New Boiler pursuant to Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142, and was therefore required to obtain an operating permit from Illinois EPA pursuant to Section 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.143.

27. From at least 2011, on a date or dates better known to Respondent, to January 24, 2020, Respondent operated the New Boiler without the requisite operating permit.

28. By operating the New Boiler without the requisite operating permit, Respondent violated Section 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.143, and thereby violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2018).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, LAWRENCE FOODS, INC., an Illinois corporation, with respect to Count III:

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

2. Finding that the Respondent has violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2018), and Section 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.143;

3. Ordering the Respondent to cease and desist from any future violations of Section 9(b) of the Act, 415 ILCS 5/9(b) (2018), and Section 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.143;

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

5. Taxing all costs in this action, including, but not limited to, attorney, expert witness and consultant fees against Respondent; and

6. Granting other such 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/ Elizabeth Wallace  
ELIZABETH WALLACE, Chief  
Environmental Bureau

Of Counsel:

Daniel I. Rottenberg  
Assistant Attorney General  
Environmental Bureau  
69 W. Washington Street, 18th Floor  
Chicago, Illinois 60602  
(312) 814-3816  
Primary: drottenberg@atg.state.il.us  
Secondary: mcacaccio@atg.state.il.us

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LAWRENCE FOODS, INC.,	)	
an Illinois corporation,	)	
	)	
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 Complaint in this matter alleges violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2018), Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 254.302(a), Section 9(b) of the Act, 415 ILCS 5/9(b) (2018), Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142, and Section 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.143.
2. Complainant is filing the Complaint with the Board simultaneous with this Motion and a Stipulation and Proposal for Settlement.
3. Due to the challenges presented by the COVID-19 pandemic, the Respondent has agreed to accept service of the Complaint via electronic mail. A true and correct copy of the

agreement to accept service via electronic mail is attached hereto as Exhibit 1.

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, 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

KWAME RAOUL  
Attorney General  
State of Illinois

BY: /s/ Daniel Rottenberg  
Daniel Rottenberg  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
69 W. Washington Street, Suite 1800  
Chicago, Illinois 60602  
(312) 814-3816  
drottenberg@atg.state.il.us  
Secondary e-mail address: mcacaccio@atg.state.il.us

DATE: October 29, 2020

**EXHIBIT 1**

✖ DELETE   ← REPLY   ⇐ REPLY ALL   → FORWARD   ⋮



Molly Snittjer <ms@nijmanfranzetti.com>

Thu 10/29/2020 10:00 AM

Mark as unread

To: Rottenberg, Daniel;

• You replied on 10/29/2020 10:00 AM.

Enterprise Vault

+ Get more apps

Yes no problem.

Molly Snittjer  
Nijman Franzetti LLP  
Ph: (312) 868-0081  
ms@nijmanfranzetti.com

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**From:** Rottenberg, Daniel <DRottenberg@atg.state.il.us>  
**Sent:** Thursday, October 29, 2020 9:50 AM  
**To:** Molly Snittjer <ms@nijmanfranzetti.com>  
**Subject:** Service of Lawrence Complaint

Molly,

Given the challenges presented by COVID-19, will you agree to accept service of the Lawrence Foods complaint via email?

Please let me know.

Thank you!



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**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 LAWRENCE FOODS, INC., an Illinois corporation (“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. (2018), 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 October 29, 2020, 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

upon the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2018), 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 (2018).

3. At all times relevant to the Complaint, Respondent has been and is an Illinois corporation authorized to transact business in the State of Illinois.

4. At all times relevant to the Complaint, Respondent has owned and operated a bakery ingredient manufacturing facility located at 2200 Lunt Avenue, Elk Grove Village, Cook County, Illinois ("Facility").

**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 a Complete and Accurate Annual Emissions Report in Violation of Section 9(a) of the Act, 415 ILCS 5/9(a) (2018), and Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 254.302(a)

Count II: Constructing an Emission Source without a Permit in Violation of Section 9(b) of the Act, 415 ILCS 5/9(b) (2018), and Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142

Count III: Operating an Emission Source without a Permit in Violation of Section 9(b) of the Act, 415 ILCS 5/9(b) (2018), and Section 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.143

**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**

1. On October 17, 2019, Respondent submitted Annual Emissions Reports for calendar years 2016, 2017, and 2018 to the Illinois EPA.
2. On December 9, 2019, Respondent submitted to the Illinois EPA an application for a construction permit for the New Boiler and a Registration of Smaller Sources (ROSS) application for the Facility.
3. On January 24, 2020, Illinois EPA issued to Respondent a Registration Confirmation that the Facility had been registered in the Registration of Smaller Sources (ROSS) Program.

**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 state the following:

1. Complainant asserts that human health and the environment were threatened and the Illinois EPA's information gathering responsibilities were hindered by the Respondent's violations alleged in the Complaint.

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 complete and accurate annual emissions reports and obtaining a permit prior to the construction and operation of emission sources at the Facility are both technically practicable and economically reasonable.

5. Respondent has subsequently complied with the Act and the Board regulations.

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

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

1. Complainant alleges that Respondent failed to obtain a permit for construction activities prior to beginning construction activities at the Facility and operated the Facility without the requisite operating permit. The alleged violations began on or around 2011, and were resolved on January 24, 2020.
2. Respondent was diligent in attempting to come back into compliance with the Act and Board regulations, 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 that is alleged in the Complaint.

4. Complainant has determined, based upon the specific facts of this matter, that a penalty of Twelve Thousand Five Hundred Dollars (\$12,500.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

5. To Complainant's knowledge, Respondent has no previously adjudicated violations of the Act.

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

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

8. A Compliance Commitment Agreement was not at issue in this matter.

## V. TERMS OF SETTLEMENT

### A. **Penalty Payment**

The Respondent shall pay a civil penalty in the sum of Twelve Thousand Five Hundred Dollars (\$12,500.00) 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:

Daniel I. Rottenberg  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General’s Office  
69 W. Washington Street, Suite 1800  
Chicago, Illinois 60602

**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 \$12,500.00 penalty, its commitment to cease and desist as contained in Section V.D.3 above, and upon the Board's approval of this Stipulation, the Complainant releases, waives and discharges the Respondent from any further liability or penalties for the violations of the Act and Board regulations that were the subject matter of the Complaint herein. The release set forth above does not extend to any matters other than those expressly specified in Complainant's Complaint filed on October 29, 2020. The Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against the Respondent with respect to all other matters, including but not limited to, the following:

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

Nothing in this Stipulation is intended as a waiver, discharge, release, or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or



in equity, which the State of Illinois may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315, or entity other than the Respondent.

**F. Enforcement and Modification of Stipulation**

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

**G. Execution of Stipulation**

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

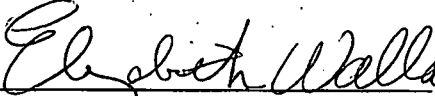
WHEREFORE, the Parties to the Stipulation request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

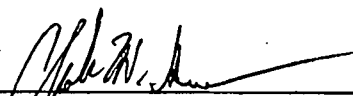
PEOPLE OF THE STATE OF ILLINOIS  
  
KWAME RAOUL  
Attorney General  
State of Illinois

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

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

JOHN J. KIM, Director  
Illinois Environmental Protection Agency

BY:   
ELIZABETH WALLACE, Chief  
Assistant Attorney General  
Environmental Bureau

BY:   
CHARLES W. GUNNARSON  
Chief Legal Counsel

DATE: 10/28/20

DATE: 10/28/2020

LAWRENCE FOODS, INC.  
RESPONDENT

By: 

Its: CEO

DATE: 20 oct 20