

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
by KWAME RAOUL, Attorney)	
General of the State of Illinois,)	
)	
Complainant,)	
)	
v.)	No.
)	(Enforcement – Air)
VANTAGE SPECIALTIES, INC.,)	
a Delaware corporation,)	
)	
Respondent.)	

NOTICE OF FILING

To: Persons on 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 Complaint, Motion for Relief from Hearing Requirement and Stipulation and Proposal for Settlement, true and correct copies of which are attached hereto and hereby served upon you.

KWAME RAOUL
Attorney General
State of Illinois

/s/ Kevin Garstka
Kevin Garstka, AAG

Dated: June 21, 2024

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CERTIFICATE OF SERVICE

I, Kevin Garstka, an Assistant Attorney General, do hereby certify that I have served on the this 21st day of June 2024, the attached Notice of Filing, Complaint, Motion for Relief from Hearing Requirement and Stipulation and Proposal for Settlement upon the persons listed on the foregoing Service List by electronic mail.

/s/ Kevin Garstka

Kevin Garstka

Assistant Attorney General

Environmental Bureau

Illinois Attorney General's Office

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COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by Kwame Raoul, Attorney General of the State of Illinois (“Complainant”), complains of the Respondent, VANTAGE SPECIALTIES, INC., a Delaware corporation (“Respondent”), as follows:

COUNT I
FAILURE TO OPERATE AND MAINTAIN CONTINUOUS EMISSIONS
MONITORING SYSTEM

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 (2022).

2. The Illinois EPA is an administrative agency of the State of Illinois, created by Section 4 of the Act, 415 ILCS 5/4 (2022), and charged, *inter alia*, with the duty of enforcing the Act.

3. At all times relevant to this Complaint, Respondent was and is a Delaware corporation qualified to transact business in the State of Illinois and registered with the Illinois Secretary of State's Office as a foreign corporation in good standing.

4. Respondent owns and operates a chemical production facility located at 3938 Porett Drive, Gurnee, Lake County, Illinois ("Facility") that manufactures ingredients used in personal care, food, and industrial products.

5. As of the date of filing of this Complaint, the Facility is located in an area of Environmental Justice ("EJ") concern as identified using Illinois EPA EJ Start.

6. Respondent's operations at the Facility emit Ethylene Oxide ("EtO") into the environment.

7. EtO is highly reactive, readily absorbed, and easily distributed in the human body. EtO is mutagenic and causes chromosome damage in many species, including humans.

8. On December 17, 2019, Illinois EPA issued construction permit no. 19100015 to Respondent setting an annual cap on EtO emissions and implementing requirements related to the cap including operating and maintaining a continuous emissions monitoring system ("CEMS"), monitoring for leaks, and recordkeeping and reporting.

9. At all times relevant to this Complaint, Respondent has operated emissions units at the Facility, including six alkoxylation reactors. The vent streams of these emission units are controlled by an emission control system consisting of a scrubber followed by a dry bed absorption ("DBS") device, which includes the CEMS on the emission stack.

10. Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2022), 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....

11. Section 112(d)(1) of the Clean Air Act, 42 U.S.C. § 7412(d)(1), provides in pertinent part as follows:

The Administrator shall promulgate regulations establishing emission standards for each category or subcategory of major sources and area sources of hazardous air pollutants listed for regulation.

12. Pursuant to Section 112(d)(1) of the Clean Air Act, the United States Environmental Protection Agency (“USEPA”) promulgated National Emission Standards for Hazardous Air Pollutants (“NESHAP”) for Source Categories, which are found in Chapter 40, Part 63 of the Code of Federal Regulations (“C.F.R.”), 40 C.F.R. Part 63. The Illinois EPA administers NESHAP for subject sources in Illinois pursuant to a delegation agreement with the USEPA.

13. Subpart A of Title 40, Part 63 of the C.F.R. was adopted pursuant to Section 112 of the Clean Air Act as part of NESHAP Regulations. Subpart A contains the general provisions for NESHAPs. The standards of 40 C.F.R. 63, Subpart A are enforceable in the State of Illinois pursuant to Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2022).

14. Section 112(a) of the Clean Air Act, 42 U.S.C. § 7412(a), provides the following definitions:

Major source. The term “The term “major source” means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants. The Administrator may establish a lesser quantity, or in the case of radionuclides different criteria, for a major source than that specified in the previous sentence, on the basis of the potency of the air pollutant, persistence, potential for bioaccumulation, other characteristics of the air pollutant, or other relevant factors.

Stationary source. The term “stationary source” shall have the same meaning as such term has under section 7411(a) of this title.

Hazardous air pollutant. The term “hazardous air pollutant” means any air pollutant listed pursuant to subsection (b) of this section.

Owner or operator. The term “owner or operator” means any person who owns, leases, operates, controls, or supervises a stationary source.

15. Section 111(a) of the Clean Air Act, 42 U.S.C. § 7411(a), provides the following definition:

The term “stationary source” means any building, structure, facility, or installation which emits or may emit any air pollutant. Nothing in subchapter II of this chapter relating to nonroad engines shall be construed to apply to stationary internal combustion engines.

16. At all times relevant to the Complaint, the Facility was and continues to be a “stationary source,” as that term is defined by Sections 111(a) and 112(a) of the Clean Air Act, 42 U.S.C. §§ 7411(a) and 7412(a).

17. At all times relevant to the Complaint, Respondent, who owns and operates the Facility, which is a stationary source, was and continues to be the “owner or operator” as that term is defined by Section 112(a) of the Clean Air Act, 42 U.S.C. § 7412(a).

18. Section 112(b) of the Clean Air Act, 42 U.S.C. § 7412(b), lists EtO as a hazardous air pollutant (“HAP”).

19. At all times relevant to the Complaint, Defendant’s Facility has emitted or has the potential to emit 10 tons per year or more of any HAP or 25 tons per year or more of any combination of HAPs and is therefore a “major source” as that term is defined by Section 112(a) of the Clean Air Act, 42 U.S.C. § 7412(a).

20. Sections 63.8(c)(1)(i), (c)(2), and (c)(4) of Subpart A of the NESHAP Regulations, 40 C.F.R. § 63.8(c)(1)(i), (c)(2), and (c)(4), provide as follows:

(c) Operation and maintenance of continuous monitoring systems.

- (1) The owner or operator of an affected source shall maintain and operate each CMS as specified in this section, or in a relevant standard, and in a manner consistent with good air pollution control practices.
 - (i) The owner or operator of an affected source must maintain and operate each CMS as specified in § 63.6(e)(1).
 - (2)
 - (i) All CMS must be installed such that representative measures of emissions or process parameters from the affected source are obtained. In addition, CEMS must be located according to procedures contained in the applicable performance specification(s).
 - (ii) Unless the individual subpart states otherwise, the owner or operator must ensure the read out (that portion of the CMS that provides a visual display or record), or other indication of operation, from any CMS required for compliance with the emission standard is readily accessible on site for operational control or inspection by the operator of the equipment.
- * * *
- (4) Except for system breakdowns, out-of-control periods, repairs, maintenance periods, calibration checks, and zero (low-level) and high-level calibration drift adjustments, all CMS, including COMS and CEMS, shall be in continuous operation and shall meet minimum frequency of operation requirements as follows:
 - (i) All COMS shall complete a minimum of one cycle of sampling and analyzing for each successive 10-second period and one cycle of data recording for each successive 6-minute period.
 - (ii) All CEMS for measuring emissions other than opacity shall complete a minimum of one cycle of operation (sampling, analyzing, and data recording) for each successive 15-minute period.

21. Section 63.2 of Subpart A of the NESHAP Regulations, 40 C.F.R. § 63.2, provides the following definitions:

Affected source means the collection of equipment, activities, or both within a single contiguous area and under common control that is included in a section 112(c) source category or subcategory for which a section 112(d) standard or other relevant standard is established pursuant to section 112 of the Act. Each relevant standard will define the “affected source,” as defined in this paragraph unless a different definition is warranted based on a published justification as to why this definition would result in significant administrative, practical, or implementation problems and why the different definition would resolve those problems. The term “affected source,” as used in this part, is separate and distinct from any other use of that term in EPA regulations such as those implementing title IV of the Act. Affected source may be defined differently for part 63 than affected facility and stationary source in parts 60 and 61, respectively. This definition of “affected source,” and the procedures for adopting an alternative definition of “affected source,” shall apply to each section 112(d) standard for which the initial proposed rule is signed by the Administrator after June 30, 2002.

Continuous emission monitoring system (CEMS) means the total equipment that may be required to meet the data acquisition and availability requirements of this part, used to sample, condition (if applicable), analyze, and provide a record of emissions.

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

22. Respondent is the “owner or operator” of the “affected source,” the Facility, that includes a “CEMS” to monitor EtO emissions, as each of those terms are defined in Section 63.2 of Subpart A of the NESHAP Regulations, 40 C.F.R. § 63.2.

23. Section 9(b) of the Act, 415 ILCS 5/9(b) (2022), 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.

24. Condition 13(a) of construction permit no. 19100015 provides in pertinent part:

- (a) The Permittee shall install, operate, calibrate and maintain a continuous emissions monitoring system (“CEMS”) on the stack of the affected emission control system to measure the concentration of ethylene oxide in the exhaust system in parts per billion by volume (ppbv). This monitoring system shall be designed and operated to meet the requirements in USEPA’s Performance Specification 15 (PS-15), “Performance Specifications for Extractive Fourier Transform Infrared Spectroscopy (FTIR) Continuous Emissions Monitor Systems in Stationary Sources,” except as provided by Conditions 13(a)(i) and (ii) below, and to maintain a limit of quantification that is no greater than 20 ppbv.
 - (i) Audit Samples: Audit samples shall be certified to ± 5 percent accuracy (Alternative to Section 9.1.1 of PS-15).
 - (ii) Background Deviations/Quality Assurance Spike: The average spiked concentration shall be between 70 and 130 percent of the expected concentration, as provided by Section 8.6.2 of USEPA Method 320 (Alternative to Section 10.6 of PS-15)).

25. Condition 13(c)(ii) of construction permit no. 19100015 provides in pertinent part:

- (c) For the monitoring systems required by Conditions 13(a) and (b):
 - (ii) The permittee shall operate and maintain these monitoring systems to comply with the requirements of 40 CFR 63.8(c) and (g), provided, however, that the Illinois EPA shall serve as the “Administrator” for purposes of these rules, rather than the Administrator of the USEPA or his or her authorized representative.

26. On April 26, 2022, Respondent submitted a 2022 first quarter calendar year report for the monitoring plan required by Condition 7(a) of construction permit no. 191000015.

27. From January 9, 2022 until January 11, 2022, Respondent failed to operate and maintain its CEMS for a period of 48 hours, due to CEMS laser malfunction.

28. From February 4, 2022 until February 22, 2022, Respondent failed to operate and maintain its CEMS for a period of 435.02 hours, due to CEMS software malfunction.

29. On January 30, 2023, Respondent submitted a 2022 fourth quarter calendar year report for the monitoring plan required by Condition 7(a) of construction permit no. 191000015.

30. From December 11, 2022 until December 12, 2022, Respondent failed to operate

and maintain its CEMS for a period of 31.1 hours, due to CEMS software malfunction.

31. By failing to operate and maintain its CEMS from January 9, 2022 until January 11, 2022, February 4, 2022 until February 22, 2022, and December 11, 2022 until December 12, 2022, Respondent violated Sections 63.8(c)(1)(i), (c)(2), and (c)(4) of Subpart A of the NESHAP Regulations, 40 C.F.R. § 63.8(c)(1)(i), (c)(2), and (c)(4), and Conditions 13(a) and 13(c)(ii) of construction permit no. 19100015.

32. By violating Sections 63.8(c)(1)(i), (c)(2), and (c)(4) of Subpart A of the NESHAP Regulations, 40 C.F.R. § 63.8(c)(1)(i), (c)(2), and (c)(4), Respondent also violated Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2022).

33. By violating Conditions 13(a) and 13(c)(ii) of construction permit no. 19100015, Respondent violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2022).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, VANTAGE SPECIALTIES, INC., a Delaware 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 the Respondent has violated Sections 9(b) and 9.1(d)(1) of the Act, 415 ILCS 5/9(b) and 9.1(d)(1) (2022), Sections 63.8(c)(1)(i), (c)(2), and (c)(4) of Subpart A of the NESHAP regulations, 40 C.F.R. § 63.8(c)(1)(i), (c)(2), and (c)(4), and Conditions 13(a) and 13(c)(ii) of construction permit no. 19100015;

3. Ordering the Respondent to cease and desist from any future violations of Sections 9(b) and 9.1(d)(1) of the Act, 415 ILCS 5/9(b) and 9.1(d)(1) (2022), Sections 63.8(c)(1)(i), (c)(2),

and (c)(4) of Subpart A of the NESHAP regulations, 40 C.F.R. § 63.8(c)(1)(i), (c)(2), and (c)(4), and Conditions 13(a) and 13(c)(ii) of construction permit no. 19100015;

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 II
FAILURE TO RECORD ETO EMISSIONS FROM CONTINUOUS EMISSIONS
MONITORING SYSTEM

1-12. Plaintiff re-alleges and incorporates herein by reference paragraphs 1 through 9, 23, 26, and 28 of Count I as paragraphs 1 through 12 of this Count II.

13. Condition 13(c)(i) of construction permit no. 19100015 provides:

(c) For the monitoring systems required by Conditions 13(a) and (b):

(i) In addition to automatically recording the data measured by each of these monitoring systems, the Permittee shall automatically record the emissions of ethylene oxide, in pounds/hour, as calculated from the data measured by these monitoring systems.

14. From February 4, 2022 until February 22, 2022, Respondent failed to automatically record EtO emissions, in pounds/hour, as calculated from the data measured by its CEMS.

15. By failing to automatically record EtO emissions, in pounds/hour, as calculated from the data measured by its CEMS from February 4, 2022 until February 22, 2022, Respondent violated Condition 13(c)(i) of construction permit no. 19100015, and thereby violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2022).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, VANTAGE SPECIALTIES, INC., a Delaware 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) (2022), and Condition 13(c)(i) of construction permit no. 19100015;
3. Ordering the Respondent to cease and desist from any future violations of Section 9(b) of the Act, 415 ILCS 5/9(b) (2022), and Condition 13(c)(i) of construction permit no. 19100015;
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

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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/ Stephen J. Sylvester

STEPHEN J. SYLVESTER, Chief
Environmental Bureau
Assistant Attorney General

Of Counsel:

Kevin J. Garstka
Assistant Attorney General
Environmental Bureau
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Primary: kevin.garstka@ilag.gov
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
by KWAME RAOUL, Attorney)	
General of the State of Illinois,)	
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Complainant,)	
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v.)	No.
)	(Enforcement – Air)
VANTAGE SPECIALTIES, INC.,)	
a Delaware corporation,)	
)	
Respondent.)	

MOTION FOR RELIEF FROM HEARING REQUIREMENT

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) (2022), 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) (2022). In support of this motion, Complainant states as follows:

1. The Complaint in this matter alleges violations of Sections 9(b) and 9.1(d)(1) of the Act, 415 ILCS 5/9(b) and 9.1(d)(1) (2022), Sections 63.8(c)(1)(i), (c)(2), and (c)(4) of Subpart A of the NESHAP regulations, 40 C.F.R. § 63.8(c)(1)(i), (c)(2), and (c)(4), and Conditions 13(a), 13(c)(i), and 13(c)(ii) of construction permit no. 19100015;
2. Complainant filed the Complaint on June 21, 2024.
3. The parties have reached agreement on all outstanding issues in this matter.
4. This agreement is presented to the Board in a Stipulation and Proposal for Settlement.

5. 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) (2022).

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) (2022).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

KWAME RAOUL
Attorney General
State of Illinois

BY: /s/ Kevin Garstka
Kevin Garstka
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
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Secondary e-mail address: Maria.Cacaccio@ilag.gov

DATE: June 21, 2024

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. 24-
)	(Enforcement – Air)
VANTAGE SPECIALTIES, INC.,)	
a Delaware corporation,)	
)	
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 VANTAGE SPECIALTIES, INC, a Delaware 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. (2022), Federal regulations, and construction permit conditions 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 June 21, 2024, 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 (2022), 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 (2022).

3. At all times relevant to the Complaint, Respondent was and is a Delaware corporation qualified to transact business in the State of Illinois and registered with the Illinois Secretary of State's Office as a foreign corporation in good standing.

4. At all times relevant to the Complaint, Respondent owned and operated a chemical production facility located at 3938 Porett Drive, Gurnee, Lake County, Illinois ("Facility").

5. As of the date of filing of the Complaint, the Facility is located in an area of Environmental Justice ("EJ") concern as identified using Illinois EPA EJ Start.

B. Allegations of Non-Compliance

Complainant contends that the Respondent has violated the following provisions of the Act, Federal regulations, and construction permit:

- Count I: Failure to Operate and Maintain Continuous Emissions Monitoring System ("CEMS") in violation of Sections 9(b) and 9.1(d)(1) of the Act, 415 ILCS 5/9(b) and 9.1(d)(1) (2022), Sections 63.8(c)(1)(i), (c)(2), and (c)(4) of Subpart A of the NESHAP regulations, 40 C.F.R. § 63.8(c)(1)(i), (c)(2), and (c)(4), and Conditions 13(a) and 13(c)(ii) of construction permit no. 19100015; and
- Count II: Failure to Record Ethylene Oxide Emissions from CEMS in violation of Section 9(b) of the Act, 415 ILCS 5/9(b) (2022), and Condition 13(c)(i) of construction permit no. 19100015.

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 January 11, 2022, Respondent replaced the ethylene oxide CEMS laser at the Facility. This resolved the two days of CEMS downtime in January of 2022, due to a failed laser in the CEMS.
2. On February 22, 2022, Respondent restarted the ethylene oxide CEMS to resume collecting emissions data at the Facility. This resolved the 18 days of CEMS downtime in February 2022, when the CEMS moved into pause mode.
3. On December 12, 2022, Respondent reset the ethylene oxide CEMS software. This resolved the two days of CEMS downtime in December of 2022, when the CEMS software closed.
4. On August 16, 2022, Respondent installed and tested a new software update for the ethylene oxide CEMS that includes an audible alarm at the Facility when the ethylene oxide CEMS is placed in pause/stop mode. The audible alarm had been inoperative as a result of a prior vendor software update.
5. Immediately following discovery of the CEMS pause mode issue in February of 2022, Respondent's personnel began checks of the CEMS status multiple times per day.
6. Respondent also developed an email alert that occurs when the CEMS moves into

pause/stop mode or experiences a missed or failed daily calibration.

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 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 (2022).

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

Section 33(c) of the Act, 415 ILCS 5/33(c) (2022), 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 contends that human health and the environment were threatened and the Illinois EPA's information gathering responsibilities hindered by the Respondent's violations.
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. Operating and maintaining its ethylene oxide CEMS and recording ethylene oxide emissions from its ethylene oxide CEMS are both technically practicable and economically reasonable.
5. Respondent has subsequently complied with the Act, Federal regulations, and construction permit conditions.

IV. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h) (2022), 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 operate and maintain its ethylene oxide CEMS and record ethylene oxide emissions from its ethylene oxide CEMS. The violations began on January 9, 2022, and were individually resolved at various times in the following year, with all outstanding violations resolved by December 12, 2022.

2. Respondent was diligent in attempting to come back into compliance with the Act, Federal regulations, and construction permit conditions. As required by permit, Respondent reported the CEMS downtime to Illinois EPA, along with calculated emissions during the CEMS downtime, which calculations are based on historical CEMS data for representative operations.

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 Sixty Thousand Dollars (\$60,000.00) will serve to deter further violations and aid in future voluntary compliance with the Act, Federal regulations, and construction permit conditions.

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 Sixty Thousand Dollars (\$60,000.00) 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:

Kevin Garstka
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, Federal regulations, and construction permit conditions that were the subject matter of the Complaint.

E. Release from Liability

In consideration of the Respondent's payment of the \$60,000.00 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 on June 21, 2024. 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. This Stipulation may be executed by the parties in one or more counterparts, all of which taken together shall constitute one and the same instrument.

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

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

JOHN J. KIM, Director
Illinois Environmental Protection Agency

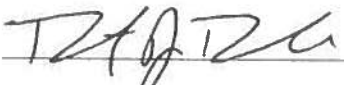
BY: 
STEPHEN J. SYLVESTER, Chief
Environmental Bureau
Assistant Attorney General

BY: 
CHARLES W. GUNNARSON
Chief Legal Counsel

DATE: 6/13/24

DATE: 6/12/24

VANTAGE SPECIALTIES, INC.

BY: 

ITS: EVP MANUFACTURING AND SUPPLY CHAIN OPERATIONS

DATE: JUNE 7, 2024