

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS  
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS, )

Complainant, )

v. )

PCB NO. 2010-009  
(Cost Recovery)

WASTE HAULING LANDFILL, INC., JERRY )  
CAMFIELD, A.E. STALEY )  
MANUFACTURING CO., ARCHER )  
DANIELS MIDLAND, INC., ARAMARK )  
UNIFORM SERVICES, INC., BELL SPORTS, )  
INC., BORDEN CHEMICAL CO., )  
BRIDGESTONE/FIRESTONE, INC., )  
CLIMATE CONTROL, INC., CATERPILLAR, )  
INC., COMBE LABORATORIES, INC., )  
GENERAL ELECTRIC RAILCAR SERVICES )  
CORPORATION, P&H MANUFACTURING, )  
INC., TRINITY RAIL GROUP, INC., TRIPLE )  
S REFINING CORPORATION and ZEXEL )  
ILLINOIS, INC. )

Respondents.

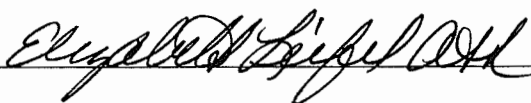
**NOTICE OF FILING**

To: James L. Morgan  
Assistant Attorney General  
500 South Second Street  
Springfield, Illinois 62706

PLEASE TAKE NOTICE that on the 1st day of September, 2009, we filed Tate and Lyle  
Ingredients Americas, Inc.'s ANSWER AND AFFIRMATIVE DEFENSES, before the Illinois  
Pollution Control Board, a copy which is attached and served upon you.

Respectfully submitted,

TATE AND LYLE INGREDIENTS AMERICAS, INC.

By 

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**RESPONDENT TATE & LYLE INGREDIENTS AMERICAS, INC.'S ANSWER AND AFFIRMATIVE DEFENSES**

Respondent, TATE & LYLE INGREDIENTS AMERICAS, INC. (improperly named as A.E. STALEY MANUFACTURING CO.) (hereinafter "Tate & Lyle"), by and through its attorneys, Seyfarth Shaw, hereby answers Complainants' Complaint as follows:

**COUNT I: COST RECOVERY**

**COMPLAINT ¶ 1:**

This Complaint is brought by the Attorney General on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), pursuant to the terms and provisions of Title VIII (Sections 30-34) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/30-34 (2008).

**ANSWER:**

On information and belief, Tate & Lyle admits the allegations contained in Paragraph 1 of the Complaint.

**COMPLAINT ¶ 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 (2008), and charged, *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board (“Board”).

**ANSWER:**

On information and belief, Tate & Lyle admits the allegations contained in Paragraph 2 of the Complaint.

**COMPLAINT ¶ 3:**

This Complaint is brought pursuant to Section 22.2(f)-(k) of the Act, 415 ILCS 5/22.2(f)-(k) (2008).

**ANSWER:**

Tate & Lyle states that Paragraph 3 of the Complaint contains a conclusion of law to which no response is required. To the extent any response is required, Tate & Lyle admits that the Complaint purports to bring an action under Section 22.2(f)-(k) of the Act, 415 ILCS 5/22.2(f)-(k) (2008) but denies that it is liable under said sections of the Act.

**COMPLAINT ¶ 4:**

Respondent, Waste Hauling Landfill, Inc., is a corporation formerly authorized to do business in the State of Illinois and is a person as defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2008). Waste Hauling Landfill, Inc., operated the Waste Hauling Landfill (the “Landfill”), a former sanitary landfill located in the Northwest Quarter of the Northwest Quarter of Section 26, Township 16 North, Range 1 East (Blue Mound Township), Macon County, Illinois.

**ANSWER:**

Tate & Lyle states that the allegations contained in Paragraph 4 of the Complaint do not relate to Tate & Lyle and therefore no response from Tate & Lyle is required. To the extent a

response is required, Tate & Lyle states that it is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 4 of the Complaint and therefore denies same.

**COMPLAINT ¶ 5:**

Respondent, Jerry Camfield, is an individual and is a person as defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2008). Jerry Camfield owned Waste Hauling Landfill, Inc. and personally directed its operations.

**ANSWER:**

Tate & Lyle states that the allegations contained in Paragraph 5 of the Complaint do not relate to Tate & Lyle and therefore no response from Tate & Lyle is required. To the extent a response is required, Tate & Lyle states that it is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 5 of the Complaint and therefore denies same.

**COMPLAINT ¶ 6:**

Respondent, A.E. Staley Manufacturing Co., is a corporation authorized to do business in the State of Illinois and is a person as defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2008). A.E. Staley Manufacturing Co., sent wastes to the Landfill during its operating life and those wastes contained hazardous substances.

**ANSWER:**

Respondent Tate & Lyle admits that it is a corporation authorized to do business in the State of Illinois. Tate & Lyle further states that the remaining allegations contained in Paragraph 6 of the Complaint contain legal conclusions for which no response is required. To the extent a response is required, Tate & Lyle denies the remaining allegations contained in Paragraph 6 of the Complaint.

**COMPLAINT ¶ 7:**

Respondent, Aramark Uniform Services, Inc., is a corporation no longer authorized to do business in the State of Illinois and is a person as defined in Section 3.315 of the Act, 415 ILCS

5/3.315 (2008). Aramark Uniform Services is a successor to Means Uniform Services. Means Uniform Services sent wastes to the Landfill during its operating life and those wastes contained hazardous substances.

**ANSWER:**

Tate & Lyle states that the allegations contained in Paragraph 7 of the Complaint do not relate to Tate & Lyle and therefore no response from Tate & Lyle is required. To the extent a response is required, Tate & Lyle states that it is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 7 of the Complaint and therefore denies same.

**COMPLAINT ¶ 8:**

Respondent, Archer Daniels Midland, Inc., is a corporation authorized to do business in the State of Illinois and is a person as defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2008). Archer Daniels Midland, Inc., sent wastes to the Landfill during its operating life and those wastes contained hazardous substances.

**ANSWER:**

Tate & Lyle states that the allegations contained in Paragraph 9 of the Complaint do not relate to Tate & Lyle and therefore no response from Tate & Lyle is required. To the extent a response is required, Tate & Lyle states that it is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 8 of the Complaint and therefore denies same.

**COMPLAINT ¶ 9:**

Respondent, Bell Sports, Inc., is a corporation authorized to do business in the State of Illinois and is a person as defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2008). Bell Sports, Inc., sent wastes to the Landfill during its operating life and those wastes contained hazardous substances.

**ANSWER:**

Tate & Lyle states that the allegations contained in Paragraph 9 of the Complaint do not relate to Tate & Lyle and therefore no response from Tate & Lyle is required. To the extent a

response is required, Tate & Lyle states that it is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 9 of the Complaint and therefore denies same.

**COMPLAINT ¶ 10:**

Respondent, Borden Chemical Co., is a corporation authorized to do business in the State of Illinois and is a person as defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2008). Borden Chemical Co., sent wastes to the Landfill during its operating life and those wastes contained hazardous substances.

**ANSWER:**

Tate & Lyle states that the allegations contained in Paragraph 10 of the Complaint do not relate to Tate & Lyle and therefore no response from Tate & Lyle is required. To the extent a response is required, Tate & Lyle states that it is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 10 of the Complaint and therefore denies same.

**COMPLAINT ¶ 11:**

Respondent, Caterpillar Inc., is a corporation authorized to do business in the State of Illinois and is a person as defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2008). Caterpillar Inc. sent wastes to the Landfill during its operating life and those wastes contained hazardous substances.

**ANSWER:**

Tate & Lyle states that the allegations contained in Paragraph 11 of the Complaint do not relate to Tate & Lyle and therefore no response from Tate & Lyle is required. To the extent a response is required, Tate & Lyle states that it is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 11 of the Complaint and therefore denies same.

**COMPLAINT ¶ 12:**

Respondent, Climate Control, Inc., is a corporation authorized to do business in the State of Illinois and is a person as defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2008). Climate Control, Inc., sent wastes to the Landfill during its operating life and those wastes contained hazardous substances.

**ANSWER:**

Tate & Lyle states that the allegations contained in Paragraph 12 of the Complaint do not relate to Tate & Lyle and therefore no response from Tate & Lyle is required. To the extent a response is required, Tate & Lyle states that it is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 12 of the Complaint and therefore denies same.

**COMPLAINT ¶ 13:**

Respondent, Combe Laboratories, Inc., is a corporation authorized to do business in the State of Illinois and is a person as defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2008). Combe Laboratories, Inc., sent wastes to the Landfill during its operating life and those wastes contained hazardous substances.

**ANSWER:**

Tate & Lyle states that the allegations contained in Paragraph 13 of the Complaint do not relate to Tate & Lyle and therefore no response from Tate & Lyle is required. To the extent a response is required, Tate & Lyle states that it is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 13 of the Complaint and therefore denies same.

**COMPLAINT ¶ 14:**

Respondent, Bridgestone/Firestone Inc., is a corporation authorized to do business in the State of Illinois and is a person as defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2008). Bridgestone/Firestone Inc., is a successor to Firestone Tire & Rubber Company, Firestone Tire & Company, sent wastes to the Landfill during its operating life and those wastes contained hazardous substances.



**ANSWER:**

Tate & Lyle states that the allegations contained in Paragraph 14 of the Complaint do not relate to Tate & Lyle and therefore no response from Tate & Lyle is required. To the extent a response is required, Tate & Lyle states that it is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 14 of the Complaint and therefore denies same.

**COMPLAINT ¶ 15:**

Respondent, General Electric Railcar Services Corporation, is a corporation authorized to do business in the State of Illinois and is a person as defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2008). General Electric Railcar Services Corporation acquired the North American Car Corporation. The North American Car Corporation sent wastes to the Landfill during its operating life and those wastes contained hazardous substances.

**ANSWER:**

Tate & Lyle states that the allegations contained in Paragraph 15 of the Complaint do not relate to Tate & Lyle and therefore no response from Tate & Lyle is required. To the extent a response is required, Tate & Lyle states that it is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 15 of the Complaint and therefore denies same.

**COMPLAINT ¶ 16:**

Respondent, Triple S Refining Corporation, is a corporation authorized to do business in the State of Illinois and is a person as defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2008). Triple S Refining Corporation is a successor to Kerr-McGee Refining Corporation. Kerr-McGee Refining Corporation sent wastes to the Landfill during its operating life and those wastes contained hazardous substances.

**ANSWER:**

Tate & Lyle states that the allegations contained in Paragraph 16 of the Complaint do not relate to Tate & Lyle and therefore no response from Tate & Lyle is required. To the extent a response is required, Tate & Lyle states that it is without sufficient information or knowledge to

admit or deny the allegations contained in Paragraph 16 of the Complaint and therefore denies same.

**COMPLAINT ¶ 17:**

Respondent, P & H Manufacturing, Inc., is a corporation authorized to do business in the State of Illinois and is a person as defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2008). P & H Manufacturing, Inc., sent wastes to the Landfill during its operating life and those wastes contained hazardous substances.

**ANSWER:**

Tate & Lyle states that the allegations contained in Paragraph 17 of the Complaint do not relate to Tate & Lyle and therefore no response from Tate & Lyle is required. To the extent a response is required, Tate & Lyle states that it is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 17 of the Complaint and therefore denies same.

**COMPLAINT ¶ 18:**

Respondent, Trinity Rail Group, Inc., is a corporation authorized to do business in the State of Illinois and is a person as defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2008). Trinity Rail Group, Inc., acquired Thrall Car Manufacturing Co., which had previously acquired the rail car division of Portec, Inc. Thrall Car Manufacturing Co. and the rail car division of Portec, Inc., sent wastes to the Landfill during its operating life and those wastes contained hazardous substances.

**ANSWER:**

Tate & Lyle states that the allegations contained in Paragraph 18 of the Complaint do not relate to Tate & Lyle and therefore no response from Tate & Lyle is required. To the extent a response is required, Tate & Lyle states that it is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 18 of the Complaint and therefore denies same.

**COMPLAINT ¶ 19:**

Respondent, Zexel Illinois, Inc., is a corporation authorized to do business in the State of Illinois and is a person as defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2008). Zexel Illinois, Inc., acquired Borg-Warner Corp. Borg-Warner Corp. sent wastes to the Landfill during its operating life and those wastes contained hazardous substances.

**ANSWER:**

Tate & Lyle states that the allegations contained in Paragraph 18 of the Complaint do not relate to Tate & Lyle and therefore no response from Tate & Lyle is required. To the extent a response is required, Tate & Lyle states that it is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph 18 of the Complaint and therefore denies same.

**COMPLAINT ¶ 20:**

Section 22.2 of the Act, 415 ILCS 5/22.2 (2008), provides that:

\* \* \*

- f. Notwithstanding any other provision or rule of law, and subject only to the defenses set forth in subsection (j) of this Section, the following persons shall be liable for all costs of removal or remedial, action incurred by the State of Illinois or any unit of local government as a result of a release or substantial threat of a release of a hazardous substance or pesticide.
1. the owner and operator of a facility or vessel from which there is a release or substantial threat of a release of a hazardous substance or pesticide;
  2. any person who at the time of disposal, transport, storage or treatment of a hazardous substance or pesticide owned or operated the facility or vessel used for such disposal, transport, treatment or storage from which there was a release or substantial threat of a release of a hazardous substance or pesticide;
  3. any person who by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of such hazardous substances owned or possessed by such person, by any other party or entity, at any facility, \* \* \*, owned or operated by another party or entity and containing such hazardous substances,

\* \* \*

**ANSWER:**

Tate & Lyle states that Paragraph 20 of the Complaint contains a legal conclusion to which no response is required. To the extent a response is required, Tate & Lyle states that the Illinois Environmental Protection Act speaks for itself as to its contents, and Tate & Lyle denies any allegation in Paragraph 20 of the Complaint that is inconsistent with the Act as cited and denies that it has violated the Act.

**COMPLAINT ¶ 21:**

The wastes and other materials disposed of at the Landfill include hazardous substances as defined by 3.14 of the Act, 415 ILCS 5/3.14 (2008).

**ANSWER:**

Tate & Lyle states that Paragraph 21 of the Complaint contains a conclusion of law to which no response is required. To the extent a response is required, Tate & Lyle denies the allegations contained in Paragraph 21 of the Complaint.

**COMPLAINT ¶ 22:**

The State has incurred and will continue to incur removal costs, as defined by the Act, associated with the releases and threatened releases of hazardous substances at the Facility.

**ANSWER:**

Tate & Lyle states that Paragraph 22 of the Complaint contains a conclusion of law to which no response is required. To the extent a response is required, Tate & Lyle states that it is without sufficient information or knowledge either to admit or deny the allegations contained in Paragraph 22 of the Complaint, except that Tate & Lyle specifically denies that it was the cause of or is legally responsible for any “release,” “threatened release,” or “removal costs” incurred by the State.

**COMPLAINT ¶ 23:**

Respondents are each a responsible party as described in Section 22.2(f)(1)-(2) of the Act, 415 ILCS 4/22.2(f)(1)-(2). Respondents are each liable for past, present, and future removal

costs, as defined by the Act, incurred by the State resulting or arising out of the releases and threatened releases at the Landfill.

**ANSWER:**

Tate & Lyle states that it is without sufficient information or knowledge to either admit or deny the allegations contained in Paragraph 23 as they relate to parties other than Tate and Lyle and therefore denies same. Tate & Lyle denies the remaining allegations contained in Paragraph 23 of the Complaint and specifically denies that it is a responsible party as described in Section 22.2(f)(1)-(2) of the Act, 415 ILCS 4/22.2(f)(1)-(2), and denies that it is responsible for past, present, or future removal costs at the Landfill.

**AFFIRMATIVE DEFENSES**

Respondent asserts the following affirmative defenses without waiving Complainant's obligation to meet its burden of proof and without assuming any burden of proof not otherwise imposed by law. Respondent reserves the right to raise other defenses of which it may become aware of during discovery or at the time of hearing.

1. The State's Complaint is barred by the doctrine of laches, in that the State has known of the presence of alleged hazardous materials at the Waste Hauling Landfill and initiated remediation activities in 1998. Nevertheless, the State waited over 10 years before filing the present action.

2. The State's decision not to pursue this action until more than a decade after its remediation efforts began has materially compromised Tate & Lyle's ability to defend this action. Accordingly, by failing to pursue this matter in a timely fashion, the State has deprived Tate & Lyle of its due process rights.

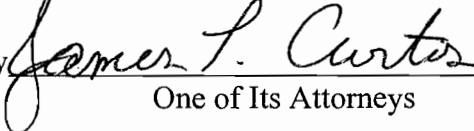
3. To the extent it is determined by the Board that Tate & Lyle bears responsibility for any portion of the State's response costs, which Tate & Lyle specifically denies, Tate &

Lyle's liability, if any, is strictly limited by Section 58.9 of the Act, which prohibits the State from bringing an action to require any person to conduct remedial activity or seek recover of remedial action costs beyond such person's proportionate degree of responsibility. 415 ILCS 5/58.9(a).

**DATED: September 1, 2009**

Respectfully submitted,

TATE & LYLE INGREDIENTS AMERICAS,  
INC.

By  \_\_\_\_\_  
One of Its Attorneys

James L. Curtis  
Jeryl L. Olson  
Elizabeth Leifel Ash  
SEYFARTH SHAW LLP  
131 South Dearborn Street  
Suite 2400  
Chicago, Illinois 60603  
(312) 460-5000

**CERTIFICATE OF SERVICE**

Elizabeth Leifel Ash, an attorney, certifies that she caused a true and correct copy of the foregoing NOTICE OF FILING and RESPONDENT TATE & LYLE INGREDIENTS AMERICAS, INC.'S ANSWER AND AFFIRMATIVE DEFENSES to be served upon:

James L. Morgan  
Assistant Attorney General  
500 South Second Street  
Springfield, Illinois 62706

by having same placed in a properly addressed, postage prepaid envelope and deposited in the U.S. Mail at 131 South Dearborn Street, Chicago, Illinois this 1st day of September, 2009.

  
Elizabeth Leifel Ash