

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF)	
ILLINOIS,)	
)	
Complainant,)	
)	
vs.)	PCB No. 04-137
)	(Enforcement)
CII CARBON, L.L.C.,)	
a foreign corporation,)	
)	
Respondent.)	

NOTICE OF ELECTRONIC FILING

To: See Attached Service List

PLEASE TAKE NOTICE that on March 19, 2010, I electronically filed with the Clerk of the Pollution Control Board of the State of Illinois, a MOTION FOR LEAVE TO FILE SECOND AMENDED COMPLAINT and SECOND AMENDED COMPLAINT, copies of which are attached hereto and herewith served upon you.


Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN,
Attorney General of the
State of Illinois

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


BY: _____


Stephen J. Janasie
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: March 19, 2010

CERTIFICATE OF SERVICE

I hereby certify that I did on March 19, 2010, cause to be served by First Class Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box in Springfield, Illinois, a true and correct copy of the following instruments entitled NOTICE OF ELECTRONIC FILING, MOTION FOR LEAVE TO FILE SECOND AMENDED COMPLAINT and SECOND AMENDED COMPLAINT upon the persons listed on the Service List.



Stephen J. Janasie
Assistant Attorney General

This filing is submitted on recycled paper.

SERVICE LIST

Mr. Roy Harsch
Gardner, Carton & Douglas
191 North Wacker Drive, Ste. 3700
Chicago, IL 60606-1698

Carol Webb
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
Springfield, IL 62794

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF)	
ILLINOIS,)	
)	
Complainant,)	
)	
vs.)	PCB No. 04-137
)	(Enforcement)
CII CARBON, L.L.C.,)	
a foreign corporation,)	
)	
Respondent.)	

MOTION FOR LEAVE TO FILE
SECOND AMENDED COMPLAINT

NOW COMES the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and respectfully requests leave to file the Second Amended Complaint and, in support thereof, states:

1. Subsequent to the filing of the First Amended Complaint in this case, Illinois Environmental Protection Agency ("IEPA") inspectors conducted additional inspections of Respondent's facility.

2. In an inspection subsequent to the filing of the Complaint in this matter, IEPA inspectors identified alleged additional violations.

3. The Second Amended Complaint adds Counts VI and VII which set forth additional alleged violations of the Illinois Environmental Protection Act and regulations effective thereunder.

4. Judicial economy and efficiency will be served by granting Complainant leave to file the Second Amended Complaint in that filing of the Second Amended Complaint will allow the parties to resolve the outstanding alleged violations within the context of a single enforcement action rather than multiple actions.

WHEREFORE, for the foregoing reasons, Complainant respectfully requests leave to file the attached Second Amended Complaint.

Respectfully submitted,

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

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

BY: 

STEPHEN J. JANASIE
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: March 19, 2010

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
CRAWFORD COUNTY, ILLINOIS**

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
vs.)	PCB No. 04-137
)	(Enforcement)
CII CARBON, L.L.C.,)	
a foreign corporation,)	
)	
Respondent.)	

SECOND AMENDED COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, CII CARBON, L.L.C., a foreign corporation, ("CII") as follows:

COUNT I
AIR POLLUTION

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 Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2008).
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").
3. This Complaint is brought pursuant to Section 31 of the Act, 415 ILCS 5/31 (2008), after providing the Respondent with notice and the opportunity for a meeting with the Illinois EPA.
4. Respondent, CII CARBON, L.L.C., is a foreign corporation authorized to do business in Illinois. Its registered agent is C. T. Corporation System, 208 South LaSalle Street, Chicago, Illinois.
5. The Respondent operates a facility, the coke plant, which produces calcined coke for the aluminum industry, located at R. R. 3, P.O. Box 719, Robinson, Crawford County, Illinois.

6. Emissions from the coke plant include particulate matter.

7. On January 17, 1997, the Illinois EPA issued Respondent Operating Permit No. 75110042, attached hereto as Exhibit A.

8. Section 9 of the Act, 415 ILCS 5/9 (2008), provides in pertinent part:

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;

9. Section 3.115 of the Act, 415 ILCS 5/3.115 (2008), defines "air pollution" as follows:

"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.

10. Section 3.165 of the Act, 415 ILCS 5/3.165 (2008), defines "contaminant" as follows:

"CONTAMINANT" is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

11. Section 201.141 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.141, provides as follows:

Prohibition of Air Pollution

No person shall cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as, either alone or in combination with contaminants from other sources, to cause or tend to cause air pollution in Illinois, or so as to violate the provisions of this chapter, or so as to prevent the attainment or maintenance of any applicable ambient air quality standard.

12. Section 212.321, Processed Emission Units for which Construction or Modifications Commenced Prior to April 14, 1972, of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 212.321, provides:

a. Except as further provided in this Part, no person shall cause or

allow the emission of particulate matter into the atmosphere in any one hour period from any new process emission unit which, either alone or in combination with the emission of particulate matter from all other similar process emission units for which construction or modification commenced on or after April 14, 1972, at a source or premises, exceeds the allowable emission rates specified in subsection (c) of this Section.

- c. Limits for Process Emission Units For Which Construction or Modification Commenced on or After April 14, 1972:

Metric P - Mg/hr	E - kg/hr	English P - T/hr	E - lbs/hr
9.	3.9	10.00	8.70
13.	4.8	15.00	10.80
18.	5.7	20.00	12.50
23.	6.5	25.00	14.00
27.	7.1	30.00	15.60
32.	7.7	35.00	17.00
36.	8.2	40.00	18.20
41.	8.8	45.00	19.20
45.	9.3	50.00	20.50
90.	13.4	100.00	29.50

where:

P = Process weight rate in metric or T/hr, and
 E = Allowable emission rate in kg/hr or lbs/hr.

13. Commencing on or before April 12, 1998, and continuing to on or after April 23, 1998, Respondent operated kiln #2 and the #2 cooler in such a manner so as to exceed the particulate standard in violation of Sections 201.141 and 212.321 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.141 and 212.321 and Section 9(a) of the Act, 415 ILCS 5/9(a)

(2008).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, CII CARBON, L.L.C.:

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

B. Finding that Respondent has violated the Act and regulations as alleged herein;

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

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2008), impose a civil penalty of up to fifty thousand dollars (\$50,000) for each violation and an additional penalty of ten thousand (\$10,000) for each day during which such violations continued;

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2008), awarding to Complainant its costs and reasonable attorney's fees; and

F. Granting such other relief as the Board may deem appropriate.

COUNT II
PERMIT CONDITION VIOLATIONS

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

9. Section 9(b) of the Act, 415 ILCS 5/9(b) (2008), provides:

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, without a permit granted by the Agency, or in violation of any conditions imposed by such permit;

10. Standard Condition #7 of Operating Permit #75110042, provides:

The permittee shall maintain all equipment covered under this permit in such a manner that the performance of such equipment shall not cause a violation of the Environmental Protection Act or regulations promulgated thereunder.

11. Standard Condition #9 of Operating Permit #75110042, provides:

No person shall cause or allow continued operation during malfunctions, breakdown or startup of any emission source or related air pollution control equipment if such operation would cause a violation of an applicable emission standard or permit limitation. Should a malfunction, breakdown or startup occur which results in emissions in excess of any applicable standard or permit limitation, the Permittee shall:

- a. Immediately report the incident to the Illinois EPA's Regional Field Operations Section Office by telephone, telegraph, or other method as constitutes the fastest available alternative, and shall comply with all reasonable directives of the Illinois EPA with respect to the incident;
- b. Maintain the following records for a period of no less than two (2) years;
 - i. Date and duration of malfunction, breakdown, or startup;
 - ii. Full and detailed explanation of the cause;
 - iii. Contaminants emitted and an estimate of quantity of emissions;
 - iv. Measures taken to minimize the amount of emissions during the malfunction, breakdown or startup; and
 - v. Measures taken to reduce future occurrences and frequency of incidents.

12. Commencing on or before April 12, 1998, and continuing to on or after April 23, 1998, Robinson Carbon, Inc., operated its #2 kiln while its baghouse was broken down, and commencing on or before June 8, 1999, and continuing to on or after July 10, 1999, Respondent operated its #2 kiln with a large hole in the archway of the pyro-scrubber.

13. Further, Respondent failed to provide notice to the Agency of the aforesaid breakdowns, all in violation of Standard Condition #7, 9 and 9(a) of Respondent's Operating Permit #7511042 and Section 9(b) of the Act, 415 ILCS 5/9(a) (2008).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, CII CARBON, L.L.C.:

- A. Authorizing a hearing in this matter, at which time, the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2008), impose a civil penalty of up to fifty thousand dollars (\$50,000) for each violation that occurred and an additional penalty of ten thousand (\$10,000) for each day during which such violations continued;
- E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2008), awarding to Complainant its costs and reasonable attorney's fees; and
- F. Granting such other relief as the Board may deem appropriate.

COUNT III
REPORTING AND RECORDKEEPING VIOLATIONS

1-11. Complainant realleges and incorporates herein by reference paragraphs 1 through 11 of Count II as paragraphs 1 through 11 of this Count III.

12. On September 4, 2003, the Illinois EPA issued CAAPP permit 95120092 applicable to all of the sources at Respondent's facility.

13. Condition 7.1.9 of Respondent's CAAPP permit 95120092 provides:

7.1.9 Recordkeeping Requirements

In addition to the records required by Condition 5.6, the Permittee shall maintain records of the following items for the process emission unit 1 to demonstrate compliance with 5.5.1, 7.1.3(c), and 7.1.6, pursuant to Section 39.5(7)(b) of the Act:

- a. Process weight rate, ton/hr.
- b. Operating hours per year.

14. Condition 7.2.5 of Respondent's CAAPP permit 95120092 provides:

7.2.5 Operational and Production Limits and Work Practices

- a. Booth cooler baghouse and both pyroscrubber vents shall be checked for visible emissions opacity twice per day (using EPA method 22) during daylight hours and the observations entered in a logbook.
- b. For calculating the weight of water to the cooler for the purpose of determining the process weight rate (PWR) and thus allowable emissions pursuant to 35 Ill. Adm. Code 212.321 and 212.322, no readings beyond the highest listed number on the scale of a rotometer is allowed. Rotometer readings must be entered hourly in a log or at the time of a change to a new value. This condition shall not apply if a continuous recording meter is installed.

15. Condition 7.2.9 a.3. of Respondent's CAAPP permit 95120092 provides:

7.2.9 Recording Requirements

In addition to the records required by Condition 5.6, the Permittee shall maintain records of the following items for affected Petroleum Coke Calcining Operations to demonstrate compliance with conditions 5.5.1 and 7.2.6, pursuant to Section 39.5(7)(b) of the Act:

- a. For Kilns:
 - Process Weight Rate, ton/hr
 - Operating Hours Per Year
- b. For Pyroscrubbers: operating hours per year.
- c. For Cooler Baghouse: Operating hours per year.
- d. For Cooler 1 and 2: Process Weight Rates.
- e. Records addressing use of good operating practices for the dust collectors:
 - I. Records for periodic inspection of the bag collectors with date, name of individual performing the

inspection, and the nature of the inspection.

- ii. Records of prompt repair of defects, with identification and description of defect, effect on emissions, date identified, date repaired, and nature of repair.

16. Condition 7.2.10 of Respondent's CAAPP permit 95120092 provides:

7.2.10 Reporting Requirements

The Permittee shall notify the Illinois EPA's regional office by telephone as soon as possible during normal working hours upon the occurrence of excess emissions due to malfunctions, or breakdowns or prior to any cold startup. If the malfunction or breakdown is less than 1 hour, or the emissions diverted within 30 minutes such that the emissions are in compliance after the diversion, are not required to have the Illinois EPA notified but records must be kept. The Permittee shall comply with all reasonable and safe directives of the regional office regarding such malfunctions and breakdowns. Within five (5) working days of such occurrence the Permittee shall give a written follow-up notice providing an explanation of the occurrence, the length of time during which operation continued under such conditions, measures taken by the permittee to minimize excess emissions and correct deficiencies, and when normal operation resumed.

17. Condition 7.3.5 a-c. of Respondent's CAAPP permit 95120092 provides:

7.3.5 Recordkeeping Requirements

The Permittee shall maintain records of the following items to demonstrate compliance with Conditions 5.5.1 and this section pursuant to Section 39.5(7)(b) of the Act:

- a. W = Mean vehicle weight (tons)
- b. VMT = Vehicle miles traveled

Records for fugitive road dust shall be calculated on an annual basis, except this calculation shall be updated if substantial changes to the roads occur, i.e., additional roads added.

- c. Material processed (storage piles), tons

18. Condition 5.6.6 a. of Respondent's CAAPP permit 95120092 provides:

5.6.6 Retention and Availability of Records

- a. All records and logs required by this permit shall be retained for at least five years from the date of entry (unless a longer retention period is specified by the particular recordkeeping provision herein), shall be kept at a location at the source that is readily accessible to the Illinois EPA or USEPA, and shall be made available for inspection and copying by the Illinois EPA or USEPA upon request.

19. Commencing in January 2003 and continuing to July 13, 2003 and October 31 through December 12, 2003, Respondent did not maintain a cooler gas diversion log sheet, in violation of Condition 7.2.10 of its CAAPP permit 95120092 and Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2008).

20. Commencing on some date prior to and continuing to December 17, 2003, known to the Respondent, Respondent did not check the cooler baghouses and pyroscrubber vents for visible opacity emission using method 22 nor opacity observers trained in method 22; and improper forms were used to record readings, all in violation of Condition 7.2.5 of its CAAPP permit 95120092 and Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2008).

21. Commencing on some date known to the Respondent and continuing until December 18, 2003, Respondent failed to keep the required records, in violation of Condition 7.1.9 a-b., 7.2.9 c-d., and 7.3.9 a-c. of Respondent's CAAPP permit 95120092 and Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2008).

22. On December 18, 2003, Respondent did not have the records required in Conditions 7.1.9 a-b., 7.2.9 c-d., and 7.3.9 a-c. available, in violation of Section 5.6.6 a. of Respondent's CAAPP permit 95120092 and Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2008).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, CII CARBON, L.L.C.:

- A. Authorizing a hearing in this matter, at which time, the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2008), impose a civil penalty of up to Fifty Thousand Dollars (\$50,000.00) for each violation and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day during which such violations continued;
- E. Pursuant to Section 42 (f) of the Act, 415 ILCS 5/42(f) (2008), awarding to Complainant its costs and reasonable attorney's fees; and
- F. Granting such other relief as the Board may deem appropriate.

COUNT IV
MAINTENANCE AND NOTIFICATION VIOLATIONS

1-12. Complainant realleges and incorporates paragraphs 1 through 12 of Count II as paragraphs 1 through 12 of this Count IV.

13. Condition 7.2.3 a.iii. of Respondent's CAAPP permit 95120092 provides:

7.2.3 Applicability Provisions and Applicable Regulations

* * *

g. Malfunction and Breakdown Provisions

In the event of a malfunction or breakdown of the affected Petroleum Coke Calcining Operations, the Permittee is authorized to continue operation of the kilns in violation of the applicable requirement of 35 IAC 212.123(a) and 212.321(a), as necessary to prevent risk of injury to personnel or severe damage to equipment. This authorization is subject to the following requirements:

* * *

iii. If both kilns are operating and the No. 1 baghouse

has a malfunction, the Rotary Cooler No. 1 shall be vented to its own pyroscrubber. If the malfunction occurs for 30 minutes or greater, the kiln operating rate will be reduced to 16 tons/hr of green coke. Operation in this mode is allowed for a maximum of 48 hours unless the Permittee obtains an extension from the Illinois EPA.

14. Condition 7.2.10 of Respondent's CAAPP permit 95120092 provides:

7.2.10 Reporting Requirements

The Permittee shall notify the Illinois EPA's regional office by telephone as soon as possible during normal working hours upon the occurrence of excess emissions due to malfunctions, or breakdowns or prior to any cold startup. If the malfunction or breakdown is less than 1 hour, or the emissions diverted within 30 minutes such that the emissions are in compliance after the diversion, are not required to have the Illinois EPA notified but records must be kept. The Permittee shall comply with all reasonable and safe directives of the regional office regarding such malfunctions and breakdowns. Within five (5) working days of such occurrence the Permittee shall give a written follow-up notice providing an explanation of the occurrence, the length of time during which operation continued under such conditions, measures taken by the Permittee to minimize excess emissions and correct deficiencies, and when normal operation resumed.

15. Condition 9.2.2 of Respondent's CAAPP permit 95120092 provides:

9.2.2 Duty to Maintain Equipment

The Permittee shall maintain all equipment covered under this permit in such a manner that the performance or operation of such equipment shall not cause a violation of applicable requirements.

16. Commencing on some date before February 4, 2004, and continuing thereafter to some date known to the respondent, Respondent did not properly maintain the No. 2 dust collector exhaust fan as required by condition 9.2.2 of Respondent's CAAPP permit 95120092 and in violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2008).

17. On February 8, 2004, and continuing to 1030 hours on February 10, 2004, Respondent caused or allowed the operation of Kiln #1 at a feed rate of 21 tons/hour during the

failure of the #1 dust collector fan, in violation of special condition 7.2.3 g.iii. of Respondent's CAAPP permit 95120092 and Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2008).

18. On February 10, 2004, Respondent failed to submit the initial telephone notification for the incident of repairing of exhaust fan housing on #1 dust collector fan, in violation of condition 7.2.10 of Respondent's CAAPP permit 95120092 and Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2008).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, CII CARBON, L.L.C.:

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

B. Finding that Respondent has violated the Act and regulations as alleged herein;

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

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2008), impose a civil penalty of up to Fifty Thousand Dollars (\$50,000.00) for each violation and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day during which such violations continued;

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2008), awarding to Complainant its costs and reasonable attorney's fees; and

F. Granting such other relief as the Board may deem appropriate.

COUNT V
RECORDKEEPING VIOLATIONS

1-10. Complainant realleges and incorporates by reference paragraphs 1 through 10 of Count II as paragraphs 1 through 19 of this Count V.

11-14. Complainant realleges and incorporates by reference paragraphs 12, 13, 15 and 18

of Count III as paragraphs 11 through 14 of this Count V.

15. Condition 5.6.1 of Respondent's CAAPP permit 95120092 provides:

5.6.1 Emission Records

The permittee shall maintain records of the following items for the source to demonstrate compliance with Condition 5.5.1, pursuant to Section 39.5(7)(b) of the Act:

Total annual emissions on a calendar year basis for the emission units covered by Section 7 (Unit Specific Conditions) of this permit.

16. Condition 7.4.9 of Respondent's CAAPP permit 95120092 provides:

7.4.9 Recordkeeping Requirements

In addition to the records required by Condition 5.6, the Permittee shall maintain records of the following items for the affected tank to demonstrate compliance with Conditions 5.5.1, 7.4.3, and 7.4.5, pursuant to Section 39.5(7)(b) of the Act.

- a. Design information for the tank showing the presence of a permanent submerged loading pipe;
- b. Maintenance and repair records for the tank, as related to the repair or replacement of the loading pipe;
- c. The throughput of the affected tank, gal/mo and gal/yr; and
- d. The monthly and aggregate annual VOM emissions from the affected tank based on the material stored, the tank throughput, and the applicable emission factors and formulas with supporting calculations.

17. Condition 9.6.1 of Respondent's CAAPP permit 95120092 provides:

9.6.1 Control Equipment Maintenance Records

A maintenance record shall be kept on the premises for each item of air pollution control equipment. As a minimum, this record shall show the dates of performance and nature of preventative maintenance activities.

18. Commencing on some date prior to February 17, 2005 and continuing thereafter to some date known to the Respondent, Respondent failed to maintain records of total annual

emissions on a calendar year basis, in violation of conditions 5.6.1 and 5.6.6 of Respondent's CAAPP permit 95120092 and in violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2008).

19. Commencing on some date prior to February 17, 2005 and continuing thereafter to some date known to Respondent, Respondent failed to maintain records of the process weight rate (tons/hr) and the operating hours per year for the green coke receiving and storage and the crushing, screening, stocking and conveying operations in violation of conditions 7.1.9 and 5.6.6 of Respondent's CAAPP permit 95120092 and Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2008).

20. Commencing on some date prior to February 17, 2005 and continuing to some date thereafter known to Respondent, Respondent failed to maintain all of the required records in the correct format, in violation of conditions 7.2.9 and 5.6.6 of Respondent's CAAPP permit 95120092 and in violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2008).

21. Commencing on some date prior to February 17, 2005 and continuing thereafter to some date known to the Respondent, Respondent failed to maintain records for the storage tank in the required format, in violation of conditions 7.4.9 and 5.6.6 of Respondent's CAAPP permit 95120092 and in violation of Section 39.5(6)(1) of the Act, 415 ILCS 5/39.5(6)(a) (2008).

22. Commencing on some date prior to February 17, 2005 and continuing thereafter to some date known to Respondent, Respondent failed to maintain adequate records demonstrating that all air pollution equipment covered under the CAAPP permit was properly maintained, in violation of condition 9.6.1 of Respondent's CAAPP permit 95120092 and Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2008).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully

requests that the Board enter an order against the Respondent, CII CARBON, L.L.C.:

- A. Authorizing a hearing in this matter, at which time, the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2008), impose a civil penalty of up to Fifty Thousand Dollars (\$50,000.00) for each violation and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day during which such violations continued;
- E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2008), awarding to Complainant its costs and reasonable attorney's fees; and
- F. Granting such other relief as the Board may deem appropriate.

COUNT VI
RECORDKEEPING VIOLATIONS

1-14. Complainant realleges and incorporates paragraphs 1 through 12, as well as paragraphs 14 and 16, of Count III as paragraphs 1 through 14 of this Count VI.

15. Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2008) provides:

6. Prohibitions.

a. It shall be unlawful for any person to violate any terms or conditions of a permit issued under this Section, to operate any CAAPP source except in compliance with a permit issued by the Agency under this Section or to violate any other applicable requirements. All terms and conditions of a permit issued under this Section are enforceable by USEPA and citizens under the Clean Air Act, except those, if any, that are specifically designated as not being federally enforceable in the permit pursuant to paragraph 7(m) of this Section.

16. On April 2, 2008, Illinois EPA performed a workplan inspection of Respondent's facility.

17. At the time of the inspection, Respondent had failed to keep records of the twice

daily visible emissions readings using EPA method 22 for a number of days within the period of January 1, 2007 through April 4, 2008, in violation of condition 7.2.5(a) of Respondent's CAAPP permit 95120092, as well as Section 39.5(6)(a) of the Act, 415 ILCS 39.5(6)(a) (2008).

18. At the time of the inspection, Respondent had failed to maintain records of the baghouse trips for the periods of July 2, 2006 through December 4, 2006; February 12, 2007 through April 9, 2007; and January 5, 2008 through January 17, 2008, in violation of condition 7.2.10 of Respondent's CAAPP permit 95120092, as well as Section 39.5(6)(a) of the Act, 415 ILCS 39.5(6)(a) (2008).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, CII CARBON, LLC:

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

B. Finding that Respondent has violated the Act and regulations as alleged herein;

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

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2008), impose a civil penalty of up to Fifty Thousand Dollars (\$50,000.00) for each violation and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day during which such violations continued;

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2008), awarding to Complainant its costs and reasonable attorney's fees; and

F. Granting such other relief as the Board may deem appropriate.

COUNT VII
OPERATION AND NOTIFICATION VIOLATIONS

1-16. Complainant realleges and incorporates paragraphs 1 through 18 of Count VI as

paragraphs 1 through 18 of this Count VII.

16. Condition 7.2.3(h)(ii) of Respondent's CAAPP permit 95120092 provides, in pertinent part:

ii. The Permittee shall take the following measures to minimize startup emissions, the duration of startups, and minimize the frequency of startups:

* * *

D. For the purposes of this condition, the pyroscrubber is defined as being in a malfunction mode if the temperature of the dust chamber thermocouple falls below 1800°F regardless of any equipment failure.

* * *

2. During this temporary shutdown emissions shall be minimized by reducing the airflow through the kiln to match the lower combustion rate.

17. Condition 7.2.6 of Respondent's CAAPP permit 95120092 provides, in pertinent part:

* * *

Emissions and operations of coolers shall not exceed the following limits:

<u>Item of Equipment</u>	<u>Process Weight Rate (Tons/Hour)</u>
Cooler 1	29.9
Cooler 2	29.9

* * *

18. Condition 5.7.1 of Respondent's CAAPP permit 95120092 provides:

General Source-Wide Reporting Requirements

The Permittee shall promptly notify the Illinois EPA, Compliance Section, of deviations of the source with the permit requirements as follows, pursuant to Section 39.5(7)(f)(ii) of the Act. Reports shall describe the probable cause of such deviations, and any corrective actions or preventative measures taken.

19. Section 39.5(7)(f)(ii) of the Act, 415 ILCS 5/39.5(7)(f)(ii) (2008) provides:

7. Permit Content.

* * *

f. To meet the requirements of this subsection with respect to reporting, the permit shall incorporate and identify all applicable reporting requirements and require the following:

* * *

ii. Prompt reporting of deviations from permit requirements, including those attributable to upset conditions as defined in the permit, the probable cause of such deviations, and any corrective actions or preventive measures taken.

20. On April 2, 2008, Illinois EPA performed a workplan inspection of Respondent's facility.

21. At the time of the inspection, Respondent reported a failure to minimize emissions during a number of temporary shutdowns of the kiln within the period of September 3, 2006 through February 13, 2007 by failing to reduce the airflow through the kiln to match the lower combustion rate, in violation of Condition 7.2.3(h)(ii)(D)(2) of Respondent's CAAPP permit 95120092, as well as Section 39.5(6)(a) of the Act, 415 ILCS 39.5(6)(a) (2008).

22. At the time of the inspection, Respondent also exceeded the process weight rate limits for Cooler 1 for the month of April 2007 and Cooler 2 for the month of March 2007, as well as the months of May 2007 through December 2007, in violation of Condition 7.2.6 of Respondent's CAAPP permit 95120092, as well as Section 39.5(6)(a) of the Act, 415 ILCS 39.5(6)(a) (2008).

23. At the time of the inspection, Respondent also failed to promptly notify Illinois EPA of the above referenced deviations from the conditions of CAAPP permit 95120092, in violation of Condition 5.7.1 of Respondent's CAAPP permit 95120092, as well as Section 39.5(6)(a) of the Act, 415 ILCS 39.5(6)(a) (2008).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, CII CARBON, L.L.C.:

- A. Authorizing a hearing in this matter, at which time, the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2008), impose a civil penalty of up to Fifty Thousand Dollars (\$50,000.00) for each violation and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day during which such violations continued;
- E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2008), awarding to Complainant its costs and reasonable attorney's fees; and
- F. Granting such other relief as the Board may deem appropriate.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS
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Dated: March 19, 2010