

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS, )  
 by LISA MADIGAN, Attorney )  
 General of the State of Illinois, )  
 )  
 Complainant, )  
 )  
 v. )  
 )  
 THE BOARD OF TRUSTEES OF THE )  
 UNIVERSITY OF ILLINOIS, a body corporate )  
 and politic, )  
 )  
 Respondent. )

PCB No. 13-  
(Enforcement – Air)

**NOTICE OF FILING**

To: See attached service list  
(VIA ELECTRONIC FILING)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Pollution Control Board by electronic filing the following Complaint, copies of which are attached and hereby served upon you.

LISA MADIGAN  
Attorney General  
State of Illinois

  
Jennifer A. Van Wie

Dated: January 3, 2013

Jennifer A. Van Wie  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
69 W. Washington Street, Suite 1800  
Chicago, Illinois 60602  
(312) 814-0609

**THIS FILING IS SUBMITTED ON RECYCLED PAPER**

Service List

For the Respondent

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Ice Miller LLP  
200 W. Madison Street, Suite 3500  
Chicago, Illinois 60606

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PEOPLE OF THE STATE OF ILLINOIS,	)	
by LISA MADIGAN, Attorney	)	
General of the State of Illinois,	)	
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THE BOARD OF TRUSTEES OF THE	)	
UNIVERSITY OF ILLINOIS, a body corporate	)	
and politic,	)	
	)	
Respondent.	)	

**COMPLAINT**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS, a body corporate and politic, as follows:

**COUNT I**  
**FAILURE TO COMPLY WITH THE CLEAN AIR ACT PERMIT PROGRAM**  
**(CAAPP) PERMIT RENEWAL REQUIREMENTS**

1. This Complaint is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency (“Illinois EPA”) pursuant to Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2010).

2. The Illinois EPA is an administrative agency established in the executive branch of the State government by Section 4 of the Act, 415 ILCS 5/4 (2010), and is charged, *inter alia*, with the duty of enforcing the Act.

3. The Respondent, the Board of Trustees of the University of Illinois (the “University”), is a body corporate and politic established under Section 1 of the University of

Illinois Act, 110 ILCS 305/1 (2010), that is capable of suing and of being sued.

4. The University operates a power plant located at 1140 South Morgan Street, Chicago, Cook County, Illinois, for its East Campus (“East Campus Facility”).

5. The East Campus Facility includes the following emission units (collectively “Emission Units”):

- a. Building 621 - two (2) 8.5 Million British thermal units per hour (“mmBtu/hr) boilers;
- b. Building 641 - one (1) 3.75 mmBtu/hr boiler (Boiler #1) and two (2) 3.65 mmBtu/hour (Boilers #2 and #3);
- c. Buildings 654 and 654A – one (1) 50.0 mmBtu/hr boiler and two (2) 75.0 mmBtu/hr boilers;
- d. Building 655 – two (2) 5.95 mmBtu/hr boilers and one (1) 3.0 mmBtu/hr boiler;
- e. Building 939 – one (1) 9.6 mmBtu/hr boiler;
- f. Two (2) 8,710 horsepower engines (Engines #1 and #2) controlled by catalytic converters;
- g. Two (2) 4,000 kilowatt engines (Engines #3 and #4) controlled by afterburners;
- h. One (1) animal waste incinerator; and
- i. One (1) 10,000 gallon storage tank.

6. On June 20, 2002, the University was issued Clean Air Act Permit Program (“CAAPP”) Permit No. 96080123 (“CAAPP Permit”) for the East Campus Facility, with an expiration date of June 19, 2007.

7. On or around January 2, 2007, or on a date better known by the University, the University submitted an application for renewal of its CAAPP Permit.

8. Condition No. 9.14 of the University’s CAAPP Permit provides as follows:

Permit Expiration and Renewal

The right to operate terminates on the expiration date unless Permittee has submitted a timely and complete renewal application. For a renewal to be timely it must be submitted no later than 9 and no sooner than 12 months prior to expiration. The equipment may continue to operate during the renewal period until final action is taken by the Illinois EPA, in accordance with the original permit conditions [Section 39.5(5)(l), (n), and (o) of the Act].

9. The University's operation of the East Campus Facility is subject to the Act and the rules and regulations promulgated by the Illinois Pollution Control Board ("Board"). The Board's regulations for air pollution are found in Title 35, Subtitle B, Chapter I, of the Illinois Administrative Code ("Board Air Pollution Regulations").

10. Sections 39.5(5)(l) and (n) of the Act, 415 ILCS 5/39.5(5)(l) and (n) (2010), provide as follows:

5. Applications and Completeness

\* \* \*

l. Unless a timely and complete renewal application has been submitted consistent with this subsection, a CAAPP source operating upon the expiration of its CAAPP permit shall be deemed to be operating without a CAAPP permit. Such operation is prohibited under this Act.

\* \* \*

n. For purposes of permit renewal, a timely application is one that is submitted no less than 9 months prior to the date of permit expiration.

11. Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b) (2010), provides as follows:

Prohibitions

\* \* \*

b. After the applicable CAAPP permit or renewal application submittal date, as specified in subsection 5 of this Section, no

person shall operate a CAAPP source without a CAAPP permit unless the complete CAAPP permit or renewal application for such source has been timely submitted to the Agency.

12. Section 3.315 of the Act, 415 ILCS 5/3.315 (2010), provides the following definition:

“Person” is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

13. The Board of Trustees of the University of Illinois, a body corporate and politic, is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2010).

14. Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (2010), provides, in pertinent part, the following definitions:

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

\* \* \*

“CAAPP Permit” or “permit” (unless the context suggests otherwise) means any permit issued, renewed, amended, modified or revised pursuant to Title V of the Clean Air Act.

“CAAPP source” means any source for which the owner or operator is required to obtain a CAAPP permit pursuant to subsection 2 of this Section.

15. The University operates the East Campus Facility, a CAAPP source, which is required to have a CAAPP permit for its operation.

16. Pursuant to Sections 39.5(5)(l) and (n) of the Act, 415 ILCS 5/39.5(5)(l) and (n) (2010), and Condition 9.14 of the University’s CAAPP Permit, the University was required to submit a timely and complete CAAPP permit renewal application to the Illinois EPA by September 19, 2006, nine (9) months before the June 19, 2007 CAAPP Permit expiration date.

17. The University submitted its CAAPP permit renewal application to the Illinois EPA on or around January 2, 2007, approximately 106 days late.

18. From at least June 19, 2007, when the University's CAAPP Permit expired, through the filing date of this Complaint, the University has operated its East Campus Facility, a CAAPP source, without the required CAAPP permit in violation of Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b) (2010).

WHEREFORE, the Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Pollution Control Board enter an order against the Respondent, THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS, with respect to Count I:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations contained herein;
2. Finding the Respondent has violated Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b) (2010);
3. Requiring the Respondent to cease and desist, pursuant to Section 33(b) of the Act, 415 ILCS 5/33(b) (2010), from further violations of Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b) (2010);
4. Ordering the Respondent to comply with the terms and conditions of its expired CAAPP Permit until a renewal CAAPP permit is issued;
5. Ordering the Respondent to timely apply for all required future renewal CAAPP permits;
6. Assessing against the Respondent a civil penalty of Ten Thousand Dollars (\$10,000.00) per day of violation;


7. Taxing all costs of this action to the Respondents pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

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

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

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

By:

  
ELIZABETH WALLACE, Chief  
Environmental Bureau  
Assistant Attorney General

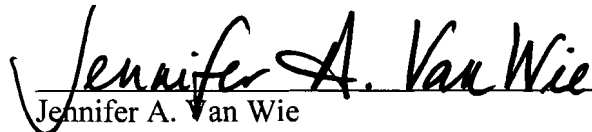
OF COUNSEL:

JENNIFER A. VAN WIE  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
69 W. Washington Street, Suite 1800  
Chicago, Illinois . 60602  
(312) 814-0609



**CERTIFICATE OF SERVICE**

I, JENNIFER A. VAN WIE, an Assistant Attorney General, certify that on the 3<sup>rd</sup> day of January 2013, I caused to be served by U.S. Certified Mail (return receipt requested), the foregoing Complaint to the parties named on the attached Service List, by depositing same in postage prepaid envelopes with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois 60601.



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