BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	PCB No. 2009-107
vs.	)	(Enforcement: Air)
	)	
TATE & LYLE INGREDIENTS AMERICAS, LLC,	)	
	)	
	)	
Respondent	)	

NOTICE OF FILING

To: See Attached Service List

PLEASE TAKE NOTICE that on October 14, 2014, I electronically filed with the Clerk of the Pollution Control Board of the State of Illinois RESPONDENT'S ANSWER TO FOURTH AMENDED COMPLAINT, a copy of which is attached hereto and served upon you.

DATED: October 14, 2014

Respectfully submitted,
TATE & LYLE INGREDIENTS AMERICAS, LLC

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, Complainant, v. TATE & LYLE INGREDIENTS AMERICAS, LLC, an Illinois limited liability company, f/k/a Tate and Lyle Ingredients Americas, Inc., Respondent.	PCB NO. 09-107 (Enforcement - Air)

ANSWER TO FOURTH AMENDED COMPLAINT

Respondent, TATE & LYLE INGREDIENTS AMERICAS, LLC, by and through its attorneys, Seyfarth Shaw LLP, and for its Answer to Fourth Amended Complaint, states as follows:

COUNT I

EMISSION OF CONTAMINANTS IN VIOLATION OF THE ACT AND CORRESPONDING REGULATIONS

COMPLAINT ¶ 1:

This Fourth Amended Complaint is brought on behalf of the People of the State of Illinois, *ex rel.* 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 the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2012), against Tate and Lyle Ingredients Americas, LLC (f/k/a Tate and Lyle Ingredients Americas, Inc.) ("TLIA" or "Respondent").

ANSWER:

Respondent states that its proper name is Tate & Lyle Ingredients, Americas LLC. Respondent admits the remaining allegations contained in Paragraph 1 of Count I 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 (2012), and charged, *inter alia*, with the duty of enforcing the Act.

ANSWER:

Respondent admits the allegations contained in Paragraph 2 of Count I of the Complaint.

COMPLAINT ¶ 3:

Respondent TLIA is an Illinois limited liability company registered with the Secretary of State's Office and is in good standing. Its registered agent is CT Corporation System, 208 South LaSalle Street, Suite 814, Chicago, Illinois 60604. TLIA's corporate offices are located at 2200 East Eldorado Street, Decatur, Illinois.

ANSWER:

Respondent denies that its corporate offices are located at 2200 East Eldorado Street, Decatur, Illinois, and further states that its corporate offices are located at 5450 Prairie Stone Parkway, Hoffman Estates, Illinois. Respondent admits the remaining allegations contained in Paragraph 3 of Count I of the Complaint.

COMPLAINT ¶ 4:

At all times relevant to this Fourth Amended Complaint, Respondent has owned and operated a Corn Wet Mill multi-plant complex at 2200 East Eldorado Street, Decatur, Macon County, Illinois (the "Complex").

ANSWER:

Respondent admits the allegations contained in Paragraph 4 of Count I of the Complaint.

COMPLAINT ¶ 5:

The Complex is a grain processing facility engaged in the manufacture of various food and industrial grade ingredients from renewable crops.

ANSWER:

Respondent admits the allegations contained in Paragraph 5 of Count I of the Complaint.

COMPLAINT ¶ 6:

One of the plants located within the Complex is the Utilities Area Plant, also known as the Co-Generation Plant (the "Co-Generation Plant"). The Co-Generation Plant is comprised of two buildings containing a combined total of six boilers. These boilers provide steam, compressed air, cooling and process water services to the Complex.

ANSWER:

Respondent admits that it operates a co-generation plant within its Decatur complex.

Respondent denies the remaining allegations contained in Paragraph 6 of Count I of the Complaint.

COMPLAINT ¶ 7:

Emissions sources at the Co-Generation Plant include two coal-fired boilers, boiler numbers 1 and 2. Each boiler is a source of sulfur dioxide ("SO2") emissions.

ANSWER:

Respondent admits the allegations contained in Paragraph 7 of Count I of the Complaint.

COMPLAINT ¶ 8:

Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2012), provides, in pertinent part:

(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; or

(2) construct, install, modify or operate any equipment, building, facility, source or installation which is subject to regulation under Sections 111, 112, 165 or 173 of the Clean Air Act, as now or hereafter amended, except in compliance with the requirements of such Sections and federal regulations adopted pursuant thereto, and no such action shall be undertaken (A) without a permit granted by the Agency . . . or (B) in violation of any conditions imposed by such permit. Any denial of such a permit or any conditions imposed in such a permit shall be reviewable by the Board in accordance with Section 40 of this Act.

ANSWER:

Respondent states that the allegations contained in Paragraph 8 of Count I of the Complaint contain a statement of law, for which no answer is required. To the extent that an answer is required, Respondent states that the Illinois Environmental Protection Act speaks for itself as to its contents. Respondent denies any allegations contained in Paragraph 8 of Count I of the Complaint that are inconsistent with the Illinois Environmental Protection Act as cited.

COMPLAINT ¶ 9:

Section 3.315 of the Act, 415 ILCS 5/3.315 (2012), provides as follows:

> "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.

ANSWER:

Respondent states that the allegations contained in Paragraph 9 of Count I of the Complaint contain a statement of law, for which no answer is required. To the extent that an answer is required, Respondent states that the Illinois Environmental Protection Act speaks for itself as to its contents. Respondent denies any allegations contained in Paragraph 9 of Count I of the Complaint that are inconsistent with the Illinois Environmental Protection Act as cited.

COMPLAINT ¶ 10:

Respondent, a limited liability company, is a "person" as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2012).

ANSWER:

Respondent admits that it is a limited liability company. Respondent states that the remaining allegations in Paragraph 10 of Count I of the Complaint assert a legal conclusion, to which no response is required. To the extent that a response is required, Respondent denies the allegations in Paragraph 10 of Count I of the Complaint.

COMPLAINT ¶ 11:

Section 111 of the Clean Air Act establishes the New Source Performance Standards ("NSPS"). The NSPS regulations are codified in Title 40, Part 60 of the Code of Federal Regulations ("NSPS Regulations"). The Illinois EPA administers the NSPS for subject sources in Illinois pursuant to a delegation agreement with the United States Environmental Protection Agency ("USEPA").

ANSWER:

Respondent admits the allegations contained in Paragraph 11 of Count I of the Complaint.

COMPLAINT ¶ 12:

The NSPS Regulations governing Fossil-Fuel-Fired Steam Generators are found in Subpart D of Title 40, Part 60. Section 60.43(a) of the Code of Federal Regulations, 40 C.F.R. 60.43(a), provides, in pertinent part, as follows:

> no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any affected facility any gases that contain SO2 in excess of:
>
> * * *
>
> (2) 520 [nanograms per joule] heat input (1.2 lb/MMBtu) derived from solid fossil fuel or solid fossil fuel and wood residue. . . .

ANSWER:

Respondent states that the allegations contained in Paragraph 12 of Count I of the Complaint contain a statement of law, for which no answer is required. To the extent that an answer is required, Respondent states that the NSPS Regulations speak for themselves as to their contents. Respondent denies any allegations contained in Paragraph 12 of Count I of the Complaint that are inconsistent with the NSPS Regulations as cited.

COMPLAINT ¶ 13:

Section 39.5 of the Act, 415 ILCS 5/39.5 (2012), provides, in pertinent part, as follows:

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 (m) of subsection 7 of this Section.

ANSWER:

Respondent states that the allegations contained in Paragraph 13 of Count I of the Complaint contain a statement of law, for which no answer is required. To the extent that an answer is required, Respondent states that the Illinois Environmental Protection Act speaks for itself as to its contents. Respondent denies any allegations contained in Paragraph 13 of Count I of the Complaint that are inconsistent with the Illinois Environmental Protection Act as cited.

COMPLAINT ¶ 14:

Section 39.5 of the Act, 415 ILCS 5/39.5 (2012), provides 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.
>
> "Major source" means a source for which emissions of one or more air pollutants meet the criteria for major status pursuant to paragraph c of subsection 2 of this Section.
>
> "Owner or operator" means any person who owns, leases, operates, controls, or supervises a stationary source.
>
> "Source" means any stationary source (or any group of stationary sources) that is located on one or more contiguous or adjacent properties that are under common control of the same person (or persons under common control) and that belongs to a single major industrial grouping. For the purposes of defining "source," a stationary source or group of stationary sources shall be considered part of a single major industrial grouping if all of the pollutant emitting activities at such source or group of sources located on contiguous or adjacent properties and under common control belong to the same Major Group (i.e., all have the same two-digit

code) as described in the Standard Industrial Classification Manual, 1987, or such pollutant emitting activities at a stationary source (or group of stationary sources) located on contiguous or adjacent properties and under common control constitute a support facility. The determination as to whether any group of stationary sources is located on contiguous or adjacent properties, and/or is under common control, and/or whether the pollutant emitting activities at such group of stationary sources constitute a support facility shall be made on a case by case basis.

"Stationary source" means any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any pollutant listed under Section 112(b) of the Clean Air Act.

ANSWER:

Respondent states that the allegations contained in Paragraph 14 of Count I of the Complaint contain a statement of law, for which no answer is required. To the extent that an answer is required, Respondent states that the Illinois Environmental Protection Act speaks for itself as to its contents. Respondent denies any allegations contained in Paragraph 14 of Count I of the Complaint that are inconsistent with the Illinois Environmental Protection Act as cited.

COMPLAINT ¶ 15:

On August 12, 2003, the Illinois EPA issued CAAPP permit number 96020099 ("CAAPP Permit 96020099") to Respondent, which constitutes a CAAPP Permit as that term is defined in Section 39.5 of the Act, 415 ILCS 5/39.5 (2012).

ANSWER:

Respondent admits that the Illinois EPA issued CAAPP permit number 96020099 to Respondent. Respondent states that the remaining allegations in Paragraph 15 of Count I of the Complaint assert a legal conclusion, to which no response is required. To the extent that a response is required, Respondent denies the remaining allegations in Paragraph 15 of Count I of the Complaint.

COMPLAINT ¶ 16:

The Complex constitutes a "CAAPP source," a "Major source," a "Source," and a "Stationary source" as those terms are defined in Section 39.5 of the Act, 415 ILCS 5/39.5 (2012).

ANSWER:

Respondent states that the allegations in Paragraph 16 of Count I of the Complaint assert a legal conclusion, to which no response is required. To the extent that a response is required, Respondent denies the allegations in Paragraph 16 of Count I of the Complaint.

COMPLAINT ¶ 17:

Respondent constitutes an "owner or operator" of the Complex, as that term is defined in Section 39.5 of the Act, 415 ILCS 5/39.5 (2012).

ANSWER:

Respondent states that the allegations in Paragraph 17 of Count I of the Complaint assert a legal conclusion, to which no response is required. To the extent that a response is required, Respondent denies the allegations in Paragraph 17 of Count I of the Complaint.

COMPLAINT ¶ 18:

Section 3.165 of the Act, 415 ILCS 5/3.165 (2012), defines "contaminant" as follows:

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

ANSWER:

Respondent states that the allegations contained in Paragraph 18 of Count I of the Complaint contain a statement of law, for which no answer is required. To the extent that an answer is required, Respondent states that the Illinois Environmental Protection Act speaks for itself as to its contents. Respondent denies any allegations contained in Paragraph 18 of Count I of the Complaint that are inconsistent with the Illinois Environmental Protection Act as cited.

COMPLAINT ¶ 19:

SO2 emissions from the boilers at the Respondent's Co-Generation Plant constitute a "contaminant" as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2012).

ANSWER:

Respondent states that the allegations in Paragraph 19 of Count I of the Complaint assert a legal conclusion, to which no response is required. To the extent that a response is required, Respondent denies the allegations in Paragraph 19 of Count I of the Complaint.

COMPLAINT ¶ 20:

Condition 7.7.3(g) of the CAAPP Permit provides, in pertinent part, as follows:

g. The affected boilers #1 and #2 are subject to emission limits and requirements of 40 CFR Part 60 Subparts D and Db and shall not exceed the following limits:

* * *

ii. SO2: 1.2 lb/mmBtu (Subpart D)

ANSWER:

Respondent states that the CAAPP permit speaks for itself as to its contents. Respondent denies any allegations contained in Paragraph 20 of Count I of the Complaint that are inconsistent with the CAAPP permit.

COMPLAINT ¶ 21:

On September 28, 2005, Respondent informed Illinois EPA that, during the period July through September 2005, coal-fired boiler operations of boiler numbers 1 and 2 caused SO2 emissions in excess, and thus in violation, of the emission standard set forth in 40 C.F.R. § 60.43(a) and Condition 7.7.3(g) of the CAAPP Permit.

ANSWER:

Respondent admits that it met with officials from the Illinois EPA on or about September 28, 2005. Respondent states that the remaining allegations contained in Paragraph 21 of Count I of the Complaint contain legal conclusions for which no answer is required. To the extent that an answer is required, Respondent denies the remaining allegations contained in Paragraph 21 of Count I of the Complaint. Respondent further denies that it violated 40 C.F.R. § 60.43(a) or Condition 7.7.3(g) of the CAAPP Permit, or any other legal requirement.

COMPLAINT ¶ 22:

On November 3, 2005, the Illinois EPA received Respondent's third quarter 2005 excess emissions report and compliance emission monitor downtime performance report (the "Third Quarter 2005 Reports") for the period July through September 2005.

ANSWER:

Respondent admits that it timely submitted reports to the Illinois EPA which, on information and belief, were received on or about November 3, 2005.

COMPLAINT ¶ 23:

The Third Quarter 2005 Reports provide that coal-fired boiler #1 ceased operation during the period September 9 through 15, 2005, to facilitate the replacement of three broken primary air nozzles that had caused fuel solids to fuse within the boiler's combustion chamber, resulting in SO2 emissions in excess, and thus in violation, of the emission standard set forth in 40 C.F.R. § 60.43(a) and Condition 7.7.3(g) of the CAAPP Permit.

ANSWER:

Respondent states that the reports speaks for themselves as to their contents. Respondent denies any allegations contained in Paragraph 23 of Count I of the Complaint that are inconsistent with the reports as submitted, including any legal conclusions drawn therefrom. Respondent further denies that it violated 40 C.F.R. § 60.43(a) or Condition 7.7.3(g) of the CAAPP Permit, or any other legal requirement.

COMPLAINT ¶ 24:

The Third Quarter 2005 Reports provide that limestone utilized by Respondent's facility from September 15 through 29, 2005, as a measure to control SO2 emissions during coal-fired boiler operations, was introduced into the fuel combustion system wet, causing the emission of SO2 in excess, and thus in violation, of the emission standard set forth in 40 C.F.R. § 60.43(a) and Condition 7.7.3(g) of the CAAPP Permit.

ANSWER:

Respondent states that the reports speaks for themselves as to their contents. Respondent denies any allegations contained in Paragraph 24 of Count I of the Complaint that are inconsistent with the reports as submitted, including any legal conclusions drawn therefrom.

Respondent further denies that it violated 40 C.F.R. § 60.43(a) or Condition 7.7.3(g) of the CAAPP Permit, or any other legal requirement.

COMPLAINT ¶ 25:

On November 3, 2008, the Illinois EPA received Respondent's third quarter 2008 excess emissions report and compliance emission monitor downtime performance report (the "Third Quarter 2008 Reports") for the period July through September 2008.

ANSWER:

Respondent admits that it timely submitted reports to the Illinois EPA which, on information and belief, were received on or about November 3, 2008.

COMPLAINT ¶ 26:

The Third Quarter 2008 Reports provide that, during the .period July 3 through July 27, 2008, limestone gravimetric feeder R7, utilized to convey limestone material into boiler #1, ceased operation on numerous occasions and introduced limestone into the boiler at an inconsistent rate, resulting in SO2 emissions in excess, and thus in violation, of the emission standard set forth in 40 C.F.R. § 60.43(a) and Condition 7.7.3(g) of the CAAPP Permit.

ANSWER:

Respondent states that the reports speaks for themselves as to their contents. Respondent denies any allegations contained in Paragraph 26 of Count I of the Complaint that are inconsistent with the reports as submitted, including any legal conclusions drawn therefrom. Respondent further denies that it violated 40 C.F.R. § 60.43(a) or Condition 7.7.3(g) of the CAAPP Permit, or any other legal requirement.

COMPLAINT ¶ 27:

The Third Quarter 2008 Reports provide that, on various dates during the period July through September 2008, process problems, boiler load changes, soot blowing, and the failure of the boiler equipment control process, in addition to undetermined causes, resulted in the emission of SO2 in excess, and thus in violation, of the emission standard set forth in 40 C.F.R. § 60.43(a) and Condition 7.7.3(g) of the CAAPP Permit.

ANSWER:

Respondent states that the reports speaks for themselves as to their contents. Respondent denies any allegations contained in Paragraph 27 of Count I of the Complaint that are inconsistent with the reports as submitted, including any legal conclusions drawn therefrom. Respondent further denies that it violated 40 C.F.R. § 60.43(a) or Condition 7.7.3(g) of the CAAPP Permit, or any other legal requirement.

COMPLAINT ¶ 28:

On February 2, 2009, the Illinois EPA received Respondent's fourth quarter 2008 excess emissions report and compliance emission monitor downtime performance report (the "Fourth Quarter 2008 Reports") for the period October through December 2008.

ANSWER:

Respondent admits that it timely submitted reports to the Illinois EPA which, on information and belief, were received on or about February 2, 2009.

COMPLAINT ¶ 29:

The Fourth Quarter 2008 Reports provide that, during the period October through December 2008, friction belts located on limestone gravimetric feeders utilized to convey limestone material into boilers #1 and #2 ceased operation on numerous occasions, as a result of large limestone blocks becoming wedged between discharge chutes and friction belts. Due to this issue, the limestone gravimetric feeders introduced limestone into each boiler at an inconsistent rate, resulting in SO2 emissions in excess, and thus in violation, of the emission standard set forth in 40 C.F.R. § 60.43(a) and Condition 7.7.3(g) of the CAAPP Permit.

ANSWER:

Respondent states that the reports speak for themselves as to their contents. Respondent denies any allegations contained in Paragraph 29 of Count I of the Complaint that are inconsistent with the reports as submitted, including any legal conclusions drawn therefrom. Respondent further denies that it violated 40 C.F.R. § 60.43(a) or Condition 7.7.3(g) of the CAAPP Permit, or any other legal requirement.

COMPLAINT ¶ 30:

The Fourth Quarter 2008 Reports provide that, on various dates during the period October through December 2008, process problems, boiler load changes, soot blowing, and the failure of its boiler equipment control process, in addition to undetermined causes, resulted in the emission of SO2 in excess, and thus in violation, of the emission standard set forth in 40 C.F.R. § 60.43(a) and Condition 7.7.3(g) of the CAAPP Permit.

ANSWER:

Respondent states that the reports speak for themselves as to their contents. Respondent denies any allegations contained in Paragraph 30 of Count I of the Complaint that are inconsistent with the reports as submitted, including any legal conclusions drawn therefrom. Respondent further denies that it violated 40 C.F.R. § 60.43(a) or Condition 7.7.3(g) of the CAAPP Permit, or any other legal requirement.

COMPLAINT ¶ 31:

On May 1, 2009, the Illinois EPA received Respondent's first quarter 2009 excess emissions report and compliance emission monitor downtime performance report (the "First Quarter 2009 Reports") for the period January through March 2009.

ANSWER:

Respondent admits that it timely submitted reports to the Illinois EPA which, on information and belief, were received on or about May 1, 2009.

COMPLAINT ¶ 32:

The First Quarter 2009 Reports provide that, during the period January 2, 2009 through February 2, 2009, limestone feeders utilized to convey limestone material into boilers #1 and #2 choked, resulting from packed limestone fines and causing the material to be introduced into each boiler at an inconsistent rate. The failure of the limestone gravimetric feeder to properly convey limestone into boilers #1 and #2 resulted in SO2 emissions in excess, and thus in violation, of the emission standard set forth in 40 C.F.R. § 60.43(a) and Condition 7.7.3(g) of the CAAPP Permit.

ANSWER:

Respondent states that the reports speak for themselves as to their contents. Respondent denies any allegations contained in Paragraph 32 of Count I of the Complaint that are

inconsistent with the reports as submitted, including any legal conclusions drawn therefrom. Respondent further denies that it violated 40 C.F.R. § 60.43(a) or Condition 7.7.3(g) of the CAAPP Permit, or any other legal requirement.

COMPLAINT ¶ 33:

The First Quarter 2009 Reports provide that, on various dates, during the period January through February 2009, process problems, boiler load changes, soot blowing, and the failure of its boiler equipment control process, in addition to undetermined causes during operation of boilers #1 and #2, resulted in the emission of SO2 in excess, and thus in violation, of the emission standard set forth in 40 C.F.R. § 60.43(a) and Condition 7.7.3(g) of the CAAPP Permit.

ANSWER:

Respondent states that the reports speak for themselves as to their contents. Respondent denies any allegations contained in Paragraph 33 of Count I of the Complaint that are inconsistent with the reports as submitted, including any legal conclusions drawn therefrom. Respondent further denies that it violated 40 C.F.R. § 60.43(a) or Condition 7.7.3(g) of the CAAPP Permit, or any other legal requirement.

COMPLAINT ¶ 34:

On October 29, 2009, the Illinois EPA received Respondent's third quarter 2009 excess emissions report and compliance emission monitor downtime performance report (the "Third Quarter 2009 Reports") for the period July through September 2009..

ANSWER:

Respondent admits that it timely submitted reports to the Illinois EPA which, on information and belief, were received on or about October 29, 2009.

COMPLAINT ¶ 35:

The Third Quarter 2009 Reports provide that, on various dates during the period July through September 2009, boiler startup and soot blowing during the operation of boilers #1 and #2 resulted in the emission of SO2 in excess, and thus in violation, of the emission standard set forth in 40 C.F.R. § 60.43(a) and Condition 7.7.3(g) of the CAAPP Permit.

ANSWER:

Respondent states that the reports speak for themselves as to their contents. Respondent denies any allegations contained in Paragraph 35 of Count I of the Complaint that are inconsistent with the reports as submitted, including any legal conclusions drawn therefrom. Respondent further denies that it violated 40 C.F.R. § 60.43(a) or Condition 7.7.3(g) of the CAAPP Permit, or any other legal requirement.

COMPLAINT ¶ 36:

On February 1, 2010, the Illinois EPA received Respondent's fourth quarter 2009 excess emissions report and compliance emission monitor downtime performance report (the "Fourth Quarter 2009 Reports") for the period October through December 2009.

ANSWER:

Respondent admits that it timely submitted reports to the Illinois EPA which, on information and belief, were received on or about February 1, 2010.

COMPLAINT ¶ 37:

The Fourth Quarter 2009 Reports provide that, on various dates in December 2009, limestone feeders utilized to convey limestone material into boilers #1 and #2 choked, causing the material to be introduced into each boiler at an inconsistent rate. The failure of the limestone feeders to properly convey limestone into boilers #1 and #2 resulted in SO2 emissions in excess, and thus in violation, of the emission standard set forth in 40 C.F.R. § 60.43(a) and Condition 7.7.3(g) of the CAAPP Permit.

ANSWER:

Respondent states that the reports speak for themselves as to their contents. Respondent denies any allegations contained in Paragraph 37 of Count I of the Complaint that are inconsistent with the reports as submitted, including any legal conclusions drawn therefrom. Respondent further denies that it violated 40 C.F.R. § 60.43(a) or Condition 7.7.3(g) of the CAAPP Permit, or any other legal requirement.

COMPLAINT ¶ 38:

The Fourth Quarter 2009 Reports provide that, on various dates during the period October through December 2009, process problems and the failure of its boiler equipment control process, in addition to undetermined causes during operation of boilers #1 and #2, resulted in the emission of SO2 in excess, and thus in violation, of the emission standard set forth in 40 C.F.R. § 60.43(a) and Condition 7.7.3(g) of the CAAPP Permit.

ANSWER:

Respondent states that the reports speak for themselves as to their contents. Respondent denies any allegations contained in Paragraph 38 of Count I of the Complaint that are inconsistent with the reports as submitted, including any legal conclusions drawn therefrom. Respondent further denies that it violated 40 C.F.R. § 60.43(a) or Condition 7.7.3(g) of the CAAPP Permit, or any other legal requirement.

COMPLAINT ¶ 39:

On April 21, 2010, the Illinois EPA received Respondent's first quarter 2010 excess emissions report and compliance emission monitor downtime performance report (the First Quarter 2010 Reports") for the period January through March 2010.

ANSWER:

Respondent admits that it timely submitted reports to the Illinois EPA which, on information and belief, were received on or about April 21, 2010.

COMPLAINT ¶ 40:

The First Quarter 2010 Reports provide that, during the period January through March 2010, the limestone feeder utilized to convey limestone material into boiler #1 caused the material to be introduced into the boiler at an inconsistent rate. The failure of the limestone feeder to properly convey limestone into boiler #1 resulted in SO2 emissions in excess, and thus in violation, of the emission standard set forth in 40 C.F.R. § 60.43(a) and Condition 7.7.3(g) of the CAAPP Permit.

ANSWER:

Respondent states that the reports speak for themselves as to their contents. Respondent denies any allegations contained in Paragraph 40 of Count I of the Complaint that are inconsistent with the reports as submitted, including any legal conclusions drawn therefrom.

Respondent further denies that it violated 40 C.F.R. § 60.43(a) or Condition 7.7.3(g) of the CAAPP Permit, or any other legal requirement.

COMPLAINT ¶ 41:

The First Quarter 2010 Reports provide that, on various dates during the period January through March 2010, soot blowing, in addition to undetermined causes during operation of boilers #1 and #2, resulted in the emission of SO2 in excess, and thus in violation, of the emission standard set forth in 40 C.F.R. § 60.43(a) and Condition 7.7.3(g) of the CAAPP Permit.

ANSWER:

Respondent states that the reports speak for themselves as to their contents. Respondent denies any allegations contained in Paragraph 41 of Count I of the Complaint that are inconsistent with the reports as submitted, including any legal conclusions drawn therefrom. Respondent further denies that it violated 40 C.F.R. § 60.43(a) or Condition 7.7.3(g) of the CAAPP Permit, or any other legal requirement.

COMPLAINT ¶ 42:

By operating boilers #1 and. #2 in violation of 40 C.F.R. § 60.43(a) and Condition 7.7.3 of the CAAPP Permit during the periods July through September 2005, July 2008 through February 2009, July 2009 through March 2010, and such other dates better known to Respondent, Respondent also violated Sections 9.1 and 39.5(6)(a) of the Act, 415 ILCS 5/9.1 and 39.5(6)(a) (2012).

ANSWER:

Respondent denies the allegations contained in Paragraph 42 of Count I of the Complaint.

COMPLAINT ¶ 43:

Since March 2010, on such dates better known to Respondent, Respondent operated boilers #1 and #2 in such a manner that has resulted in SO2 emissions in excess, and thus in violation, of the emission standard set forth in 40 C.F.R. § 60.43(a) and Condition 7.7.3(g) of the CAAPP Permit.

ANSWER:

Respondent denies the allegations contained in Paragraph 43 of Count I of the Complaint.

COUNT II

CONSTRUCTION PERMIT VIOLATIONS

COMPLAINT ¶ 1-9:

Complainant realleges and incorporates by reference herein paragraphs 1 through 7 and paragraphs 9 through 10 of Count I of this Fourth Amended Complaint as paragraphs 1 through 9 of this Count II.

ANSWER:

Respondent restates its answers to Paragraphs 1 through 7 and Paragraphs 9 through 10 as if fully set forth herein.

COMPLAINT ¶ 10:

Section 9(b) of the Act, 415 ILCS 5/9(b) (2010), provides, in pertinent part, 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, (i) without a permit granted by the Agency . . . or (ii) in violation of any conditions imposed by such permit.

ANSWER:

Respondent states that the allegations contained in Paragraph 10 of Count II of the Complaint contain a statement of law, for which no answer is required. To the extent that an answer is required, Respondent states that the Illinois Environmental Protection Act speaks for itself as to its contents. Respondent denies any allegations contained in Paragraph 10 of Count II of the Complaint that are inconsistent with the Illinois Environmental Protection Act as cited.

COMPLAINT ¶ 11:

Between December 2004 and March 2006, and on such other dates better known to Respondent, the Xanthan Gum Plant, a separate operational facility in the Complex, conducted batch fermentation, alcohol mix and precipitation, desolventization, drying, distillation, packaging and storage operations to facilitate the manufacture of xanthan gum.

ANSWER:

Respondent admits the allegations contained in Paragraph 11 of Count II of the Complaint.

COMPLAINT ¶ 12:

The Xanthan Gum Plant's emissions include isopropyl alcohol generated during xanthan gum production, which constitutes volatile organic material ("VOM").

ANSWER:

Respondent admits the allegations contained in Paragraph 12 of Count II of the Complaint.

COMPLAINT ¶ 13:

On July 10, 2003, the Illinois EPA received Respondent's construction permit application to construct the Xanthan Gum Plant within the Complex.

ANSWER:

Respondent admits that it submitted an application for a permit to construct the Xanthan Gum Plant within the Decatur complex which, on information and belief, was received on or about July 10, 2003.

COMPLAINT ¶ 14:

On February 25, 2004, the Illinois EPA issued to Respondent construction permit 03070016 (the "Construction Permit").

ANSWER:

Respondent admits the allegations contained in Paragraph 14 of Count II of the Complaint.

COMPLAINT ¶ 15:

Condition 6(a) of the Construction Permit provides as follows:

a. Total facility emissions of VOM shall not exceed 35 tons per year. Compliance with this limit shall be determined on a rolling 12 month basis, calculated monthly in accordance with Condition 12.

ANSWER:

Respondent states that the construction permit speaks for itself as to its contents. Respondent denies any allegations contained in Paragraph 15 of Count II of the Complaint that are inconsistent with the construction permit as referenced.

COMPLAINT ¶ 16:

Condition 5(a)(ii) of the Construction Permit provides as follows:

> ii. The Permittee shall track solvent (isopropyl alcohol) inventory and perform mass balance calculations sufficient to verify whether losses to the atmosphere are less than 31.5 tons on a 12-month rolling basis (see Condition 6(a).)

ANSWER:

Respondent states that the construction permit speaks for itself as to its contents. Respondent denies any allegations contained in Paragraph 16 of Count II of the Complaint that are inconsistent with the construction permit as referenced.

COMPLAINT ¶ 17:

By letter dated February 28, 2006, Respondent notified the Illinois EPA of the emission of isopropyl alcohol at the Xanthan Gum Plant in excess of the isopropyl alcohol emission limit in Condition 5(a)(ii) of the Construction Permit and thus the emission of VOM in excess of the VOM emission limit in Condition 6(a) of the Construction Permit.

ANSWER:

Respondent admits that it timely submitted a letter dated February 28, 2006 to Illinois EPA. Respondent states that the letter speaks for itself as to its contents. Respondent denies any allegations contained in Paragraph 17 of Count II of the Complaint that are inconsistent with the letter as submitted, including any legal conclusions drawn therefrom.

COMPLAINT ¶ 18:

By letter dated February 28, 2006, Respondent informed the Illinois EPA that based upon an internal audit, Respondent incorrectly determined the mass balance calculations for isopropyl alcohol losses discharged to the environment. Revised mass balance calculations based upon 12-month, rolling average data for the periods December 2004 through November 2005, January

2005 through December 2005, and February 2005 through January 2006 revealed isopropyl alcohol, and thus VOM, emissions totaling 43.41 t/yr, 41.96 t/yr, and 40.06 t/yr, respectively.

ANSWER:

Respondent admits that it timely submitted a letter dated February 28, 2006 to Illinois EPA. Respondent states that the letter speaks for itself as to its contents. Respondent denies any allegations contained in Paragraph 18 of Count II of the Complaint that are inconsistent with the letter as submitted, including any legal conclusions drawn therefrom.

COMPLAINT ¶ 19:

During the period beginning approximately October 1, 2004 through at least January 2006, and on such other dates better known to Respondent, TLIA's xanthan gum production operations at the Xanthan Gum Plant resulted in the emission of isopropyl alcohol in excess of the isopropyl alcohol limit contained in Condition 5(a)(ii) of the Construction Permit, thereby also resulting in the emission of VOM in excess of the VOM emission limit in Condition 6(a) of the Construction Permit. As such, TLIA violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2010).

ANSWER:

Respondent denies the allegations in Paragraph 19 of Count II of the Complaint.

COUNT III

VIOLATION OF PSD REQUIREMENTS

COMPLAINT ¶ 1-10:

Complainant realleges and incorporates by reference herein paragraphs 1 through 10 of Count I of this Fourth Amended Complaint as paragraphs 1 through 10 of this Count III.

ANSWER:

Respondent restates its answers to Paragraphs 1 through 10 of Count I, and 1 through 10 of Count II, as if fully set forth herein.

COMPLAINT ¶ 11:

Section 165 of the Clean Air Act, 42 U.S.C.S. 7475(a) (2010), provides in pertinent part:

(a) Major emitting facilities on which construction is commenced

No major emitting facility on which construction is commenced after August 7, 1977, may be constructed in any area to which this part applies unless-

1) a permit has been issued for such proposed facility in accordance with this part setting forth emission limitations for such facility which conform to the requirements of this part;

* * *

4) the proposed facility is subject to the best available control technology for each pollutant subject to regulation under this chapter emitted from, or which results from, such facility;

* * *

ANSWER:

Respondent states that the allegations contained in Paragraph 11 of Count III of the Complaint contain a statement of law, for which no answer is required. To the extent that an answer is required, Respondent states that the Clean Air Act speaks for itself as to its contents. Respondent denies any allegations contained in Paragraph 11 of Count III of the Complaint that are inconsistent with the Clean Air Act as cited, and denies that it violated any provision of the Clean Air Act or any other legal requirement.

COMPLAINT ¶ 12:

Section 52.21 of Title 40 of the Code of Federal Regulations, 40 C.F.R. § 52.21, entitled "Prevention of significant deterioration of air quality," provides in pertinent part:

(a)(2) Applicability procedures.

* * *

(ii) The requirements of paragraphs (j) through (r) of this section apply to the construction of any new major stationary source or the major modification of any existing major stationary source, except as this section otherwise provides.

(iii) No new major stationary source or major modification to which the requirements of paragraphs (j) through (r)(5) of this section apply shall begin actual construction without a permit that states that the major stationary source or major modification will meet those

requirements. The Administrator has authority to issue any such permit.

* * *

(b) Definitions. For the purposes of this section:

(1)(i) Major stationary source means:

(a) Any of the following stationary sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any regulated NSR pollutant. . . fossil-fuel boilers (or combinations thereof) totaling more than 250 million British thermal units per hour heat input. . . .

* * *

(ii) A major source that is major for volatile organic compounds or NOx shall be considered major for ozone.

* * *

(2)(i) Major modification means any physical change in or change in the method of operation of a major stationary source that would result in: a significant emissions increase (as defined in paragraph (b)(40) of this section) of a regulated NSR pollutant (as defined in paragraph (b)(50) of this section); and a significant net emissions increase of that pollutant from the major stationary source.

* * *

(23)(i) Significant means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant and Emissions Rate

* * *

Ozone: 40 tpy of volatile organic compounds or nitrogen oxides

* * *

(j) Control Technology Review.

(1) A major stationary source or major modification shall meet each applicable emissions limitation under the State Implementation

> Plan and each applicable emissions standard and standard of performance under 40 CFR Parts 60 and 61.
>
> * * *
>
> (3) A major modification shall apply best available control technology for each regulated NSR pollutant for which it would result in a significant net emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of a physical change or change in the method of operation in the unit.

ANSWER:

Respondent states that the allegations contained in Paragraph 12 of Count III of the Complaint contain a statement of law, for which no answer is required. To the extent that an answer is required, Respondent states that 40 C.F.R. § 52.21 speaks for itself as to its contents. Respondent denies any allegations contained in Paragraph 12 of Count III of the Complaint that are inconsistent with 40 C.F.R. § 52.21 as cited and denies that it violated 40 C.F.R. § 52.21 or any other legal requirement.

COMPLAINT ¶ 13:

As of the date of the filing of this Fourth Amended Complaint, Respondent's Complex is a major stationary source located in an attainment area for ozone.

ANSWER:

Respondent admits the allegations contained in Paragraph 13 of Count III of the Complaint.

COMPLAINT ¶ 14:

Respondent's revised mass balance calculations for the periods December 2004 through November 2005, January 2005 through December 2005, and February 2005 through January 2006 revealed isopropyl alcohol, and thus VOM, emissions at the Xanthan Gum Plant totaled 43.41 t/yr, 41.96 t/yr, and 40.06 t/yr, respectively.

ANSWER:

Respondent admits that it timely submitted revised mass balance calculations. Respondent further states that the calculations speak for themselves as to their contents. Respondent denies any allegations contained in Paragraph 14 of Count III of the Complaint that are inconsistent with the calculations as submitted, including any legal conclusions drawn therefrom, and denies that it violated any legal requirement.

COMPLAINT ¶ 15:

Respondent's construction of the Xanthan Gum Plant resulted in a significant net increase in VOM emissions in excess of 40 t/yr. As a result, Respondent's, construction of the Xanthan Gum Plant constitutes a major modification of a major stationary source subject to Prevention of Significant Deterioration ("PSD") requirements.

ANSWER:

Respondent states that the allegations contained in Paragraph 15 of Count III of the Complaint contain conclusions of law, for which no answer is required. To the extent an answer is required, Respondent denies the allegations contained in Paragraph 15 of Count III of the Complaint.

COMPLAINT ¶ 16:

Respondent failed to conduct the requisite best available control technology ("BACT") analysis, consisting of a control technology review to facilitate calculation of an emission limitation which is determined to be BACT. Respondent failed to acquire the requisite construction permit setting forth the BACT limitation prior to constructing the facility, and thereafter failed to implement BACT, in violation of Sections 165(a)(1) and (4) of the Clean Air Act, 42 U.S.C.S. 7475(a)(1) and (4) (2010), as well as Sections 52.21(a)(2)(ii), (a)(2)(iii), (j)(1) and (j)(3) of Title 40 of the Code of Federal Regulations, 40 C.F.R. § 52.21(a)(2)(ii), (a)(2)(iii), (j)(1) and (j)(3).

ANSWER:

Respondent states that the allegations contained in Paragraph 16 of Count III of the Complaint contain conclusions of law, for which no answer is required. To the extent an answer

is required, Respondent denies the allegations contained in Paragraph 16 of Count III of the Complaint.

COMPLAINT ¶ 17:

By violating Section 165 of the Clean Air Act and the federal regulations adopted thereunder, Respondent also violated Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2010).

ANSWER:

Respondent denies the allegations in Paragraph 17 of Count III of the Complaint.

AFFIRMATIVE DEFENSES

Respondent asserts the following affirmative defense 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. Respondent states that to the extent the Board determines that Respondent emitted pollutant or pollutants in excess of New Source Performance Standards at times during the periods relevant to this Complaint, as set forth in Paragraphs 21, 23, 24, 26, 27, 29, 30, 32, 33, 35, 37, 38, 40, 41, and 43 of Count I of the Complaint, where such emissions occurred during start-up, shut-down, breakdown, and/or malfunction, they are not considered violations of emissions limitations, in accordance with 40 C.F.R. § 60.8(c), 35 Ill. Adm. Code §§ 201.149, 201.265, and Conditions 7.7.5(g) and 7.7.5(i) of CAAPP Permit No. 96020099.

In response to the allegations set forth in **Paragraphs 21, 23, and 24** of Count I of the Complaint, any excess emissions during the period July - September, 2005 were caused by sudden and unpreventable malfunctions. Specifically,

- On July 1, 2005, any excess emissions from Boiler 1 were caused by a malfunction due to process problems.

- On July 3, 2005, any excess emissions from Boiler 1 were caused by a malfunction due to an alarm failure which resulted in a coal/lime ratio imbalance.
- On July 14, 2005, any excess emissions from Boiler 1 were caused by a malfunction due to process problems.
- On July 19, 2005, any excess emissions from Boiler 2 may have been the result of a malfunction due to undetermined causes.
- On July 26, 2005, any excess emissions from Boiler 1 may have been the result of a malfunction due to undetermined causes.
- On July 27, 2005, any excess emissions from Boiler 2 were caused by a malfunction due to process problems.
- On July 30, 2005, any excess emissions from Boiler 1 were caused by a malfunction due to process problems.
- On July 31, 2005, any excess emissions from Boiler 1 were caused by a malfunction due to process problems.
- On July 31, 2005, any excess emissions from Boiler 2 were caused by a malfunction due to process problems.
- On August 1, 2005, any excess emissions from Boiler 1 were caused by a malfunction due to L-Valve control issues.
- On August 2, 2005, any excess emissions from Boiler 1 were caused by a malfunction due to wet limestone.
- On August 4, 2005, any excess emissions from Boiler 1 were caused by a malfunction due to a limestone-feed failure.
- On August 5, 2005, any excess emissions from Boiler 1 were caused by a malfunction due to a limestone-feed failure.
- On August 14, 2005, any excess emissions from Boiler 2 may have been the result of a malfunction due to undetermined causes.
- On August 16, 2005, any excess emissions from Boiler 2 may have been the result of a malfunction due to undetermined causes.
- On August 24, 2005, any excess emissions from Boiler 1 were caused by a malfunction due to process problems.
- On August 25, 2005, any excess emissions from Boiler 1 were caused by a malfunction due to process problems.

- On August 26, 2005, any excess emissions from Boiler 1 were caused by a malfunction due to process problems.
- On August 26, 2005, any excess emissions from Boiler 2 may have been the result of a malfunction due to undetermined causes.
- On August 27, 2005, any excess emissions from Boiler 1 were caused by a malfunction due to process problems.
- On August 28, 2005, any excess emissions from Boiler 1 were caused by a malfunction due to process problems.
- On August 29, 2005, any excess emissions from Boiler 1 were caused by a malfunction due to process problems.
- On August 31, 2005, any excess emissions from Boiler 1 were caused by a malfunction due to process problems.
- On September 3, 2005, any excess emissions from Boiler 1 were caused by a malfunction due to process problems.
- On September 4, 2005, any excess emissions from Boiler 1 were caused by a malfunction due to process problems.
- On September 7, 2005, any excess emissions from Boiler 1 were caused by a malfunction due to process problems.
- On September 9, 2005, any excess emissions from Boiler 2 were caused by a malfunction due to process problems.
- On September 16, 2005, any excess emissions from Boiler 1 were caused by a malfunction due to wet limestone.
- On September 17, 2005, any excess emissions from Boiler 1 were caused by a malfunction due to wet limestone.
- On September 18, 2005, any excess emissions from Boiler 1 were caused by a malfunction due to wet limestone.
- On September 20, 2005, any excess emissions from Boiler 1 were caused by a malfunction due to wet limestone.
- On September 21, 2005, any excess emissions from Boiler 1 were caused by a malfunction due to wet limestone.
- On September 22, 2005, any excess emissions from Boiler 1 were caused by a malfunction due to wet limestone.

- On September 22, 2005, any excess emissions from Boiler 2 were caused by a malfunction due to wet limestone.
- On September 23, 2005, any excess emissions from Boiler 1 were caused by a malfunction due to wet limestone.
- On September 23, 2005, any excess emissions from Boiler 2 were caused by a malfunction due to wet limestone.
- On September 24, 2005, any excess emissions from Boiler 1 were caused by a malfunction due to wet limestone.
- On September 24, 2005, any excess emissions from Boiler 2 were caused by a malfunction due to wet limestone.
- On September 25, 2005, any excess emissions from Boiler 1 were caused by a malfunction due to wet limestone.
- On September 26, 2005, any excess emissions from Boiler 1 were caused by a malfunction due to wet limestone.
- On September 26, 2005, any excess emissions from Boiler 2 were caused by a malfunction due to wet limestone
- On September 27, 2005, any excess emissions from Boiler 1 were caused by a malfunction due to wet limestone.
- On September 27, 2005, any excess emissions from Boiler 2 were caused by a malfunction due to wet limestone.
- On September 28, 2005, any excess emissions from Boiler 1 were caused by a malfunction due to wet limestone
- On September 28, 2005, any excess emissions from Boiler 2 were caused by a malfunction due to wet limestone.
- On September 29, 2005, any excess emissions from Boiler 1 were caused by a malfunction due to wet limestone.

In response to the allegations set forth in **Paragraphs 26 and 27** of Count I of the Complaint, any excess emissions during the period July - September, 2008 were caused by sudden and unpreventable malfunctions. Specifically,

- On July 4, 2008, any excess emissions from Boiler 1 were caused by a malfunction due to wet limestone.

- On July 11, 2008, any excess emissions from Boiler 1 were caused by a malfunction due to a coal/lime feed system problem.
- On July 16, 2008, any excess emissions from Boiler 2 were caused by a malfunction due to a coal/lime feed system problem.
- On July 16, 2008, any excess emissions from Boiler 1 were caused by a malfunction due to the limestone feeder being tripped.
- On July 17, 2008, any excess emissions from Boiler 1 were caused by a malfunction due to the turbine tripping causing the boilers to trip offline.
- On July 19, 2008, any excess emissions from Boiler 1 were caused by a malfunction due to running boilers at a reduced rate in order to bring the turbine online.
- On July 21, 2008, any excess emissions from Boiler 2 were caused by a malfunction due to problems with the limestone conveyor.
- On July 27, 2008, any excess emissions from Boiler 1 were caused by a malfunction due to problems with the limestone conveyor.
- On July 29, 2008, any excess emissions from Boiler 1 were caused by a malfunction due to a boiler steam load change and plant problems.
- On August 3, 2008, any excess emissions from Boiler 1 may have been the result of a malfunction due to undetermined causes.
- On August 12, 2008, any excess emissions from Boiler 1 were caused by a malfunction due to a boiler steam load change and plant problems.
- On August 12, 2008, any excess emissions from Boiler 2 were caused by a malfunction due to a boiler steam load change and plant problems
- On August 14, 2008, any excess emissions from Boiler 1 may have been the result of a malfunction due to undetermined causes.
- On August 18, 2008, any excess emissions from Boiler 1 may have been the result of a malfunction due to undetermined causes.
- On August 20, 2008, any excess emissions from Boiler 1 were caused by a malfunction from undetermined causes.
- On August 24, 2008, any excess emissions from Boiler 2 may have been the result of a malfunction due to undetermined causes.

- On August 24, 2008, any excess emissions from Boiler 2 were caused by a malfunction due to boiler equipment problems.
- On August 25, 2008, any excess emissions from Boiler 1 may have been the result of a malfunction due to undetermined causes.
- On August 25, 2008, any excess emissions from Boiler 2 may have been the result of a malfunction due to undetermined causes.
- On August 26, 2008, any excess emissions from Boiler 1 may have been the result of a malfunction due to undetermined causes.
- On September 2, 2008, any excess emissions from Boiler 2 may have been the result of a malfunction due to undetermined causes.
- On September 5, 2008, any excess emissions from Boiler 1 were caused by a malfunction due to boiler load changes.
- On September 7, 2008, any excess emissions from Boiler 2 may have been the result of a malfunction due to undetermined causes.
- On September 15, 2008, any excess emissions from Boiler 2 may have been the result of a malfunction due to undetermined causes.
- On September 24, 2008, any excess emissions from Boiler 1 may have been the result of a malfunction due to undetermined causes.
- On September 24, 2008, any excess emissions from Boiler 2 may have been the result of a malfunction due to undetermined causes.
- On September 25, 2008, any excess emissions from Boiler 1 may have been the result of a malfunction due to undetermined causes.
- On September 27, 2008, any excess emissions from Boiler 1 may have been the result of a malfunction due to undetermined causes.

In response to the allegations set forth in **Paragraphs 29 and 30** of Count I of the Complaint, any excess emissions during the period October - December, 2008 were caused by sudden and unpreventable malfunctions. Specifically,

- On October 2, 2008, any excess emissions from Boiler 2 were caused by a malfunction due to lost feed on the limestone feeder.
- On October 7, 2008, any excess emissions from Boiler 1 may have been the result of a malfunction due to undetermined causes.

- On October 22, 2008, any excess emissions from Boiler 1 may have been the result of a malfunction due to undetermined causes.
- On October 23, 2008, any excess emissions from Boiler 1 may have been the result of a malfunction due to undetermined causes.
- On October 28, 2008, any excess emissions from Boiler 2 were caused by a malfunction due to issues with water in the boiler, L valve, and coal feed.
- On October 28, 2008, any excess emissions from Boiler 2 were caused by a malfunction due to boiler load change and plant problems.
- On October 29, 2008, any excess emissions from Boiler 2 were caused by a malfunction due to process problems.
- On October 31, 2008, any excess emissions from Boiler 2 were caused by a malfunction due to process problems and boiler load change issues.
- On November 1, 2008, any excess emissions from Boiler 1 were caused by a malfunction due to problems with the limestone feeder.
- On November 2, 2008, any excess emissions from Boiler 2 were caused by a malfunction due to lime feed issues.
- On November 3, 2008, any excess emissions from Boiler 2 were caused by a malfunction due to process problems.
- On November 4, 2008, any excess emissions from Boiler 1 were caused by a malfunction due to lime feed problems.
- On November 4, 2008, any excess emissions from Boiler 2 were caused by a malfunction due to lime feed problems.
- On November 5, 2008, any excess emissions from Boiler 2were caused by a malfunction due to lime feed problems.
- On November 6, 2008, any excess emissions from Boiler 1 were caused by a malfunction due to lime feed problems.
- On November 8, 2008, any excess emissions from Boiler 1 may have been the result of a malfunction due to undetermined causes.
- On November 12, 2008, any excess emissions from Boiler 1 were caused by a malfunction due to boiler load change and plant problems.
- On November 13, 2008, any excess emissions from Boiler 1 were caused by a malfunction due to lime feed problems.

- On November 14, 2008, any excess emissions from Boiler 1 may have been the result of a malfunction due to undetermined causes.
- On November 14, 2008, any excess emissions from Boiler 2 may have been the result of a malfunction due to undetermined causes.
- On November 15, 2008, any excess emissions from Boiler 1 were caused by a malfunction due to lime feed problems.
- On November 17, 2008, any excess emissions from Boiler 1 were caused by a malfunction due to lime feed problems and feeding wet lime into bunkers.
- On November 17, 2008, any excess emissions from Boiler 2 were caused by a malfunction due to lime feed problems and feeding wet lime into bunkers
- On November 18, 2008, any excess emissions from Boiler 1 were caused by a malfunction due to lime feed problems.
- On November 19, 2008, any excess emissions from Boiler 2 were caused by a malfunction due to lime feed problems.
- On November 22, 2008, any excess emissions from Boiler 1 were caused by a malfunction due to lime feed problems.
- On November 23, 2008, any excess emissions from Boiler 1 were caused by a malfunction due to process problems.
- On November 25, 2008, any excess emissions from Boiler 1 were caused by a malfunction due to lime feed problems.
- On November 25, 2008, any excess emissions from Boiler 2 were caused by a malfunction due to lime feed problems.
- On November 27, 2008, any excess emissions from Boiler 1 may have been the result of a malfunction due to undetermined causes.
- On November 28, 2008, any excess emissions from Boiler 1 were caused by a malfunction due to process problems.
- On November 29, 2008, any excess emissions from Boiler 1 were caused by a malfunction due to process problems.
- On November 30, 2008, any excess emissions from Boiler 1 were caused by a malfunction due to boiler load change and plant problems.
- On December 1, 2008, any excess emissions from Boiler 1 were caused by a malfunction due to process problems.

- On December 2, 2008, any excess emissions from Boiler 2 may have been the result of a malfunction due to undetermined causes.
- On December 4, 2008, any excess emissions from Boiler 2 may have been the result of a malfunction due to undetermined causes.
- On December 5, 2008, any excess emissions from Boiler 2 may have been the result of a malfunction due to undetermined causes.
- On December 5, 2008, any excess emissions from Boiler 1 may have been the result of a malfunction due to undetermined causes.
- On December 8, 2008, any excess emissions from Boiler 2 were caused by a malfunction due to boiler load changes and plant problems.
- On December 9, 2008, any excess emissions from Boiler 2 may have been the result of a malfunction due to undetermined causes.
- On December 14, 2008, any excess emissions from Boiler 1 may have been the result of a malfunction due to undetermined causes.
- On December 19, 2008, any excess emissions from Boiler 1 may have been the result of a malfunction due to undetermined causes.
- On December 21, 2008, any excess emissions from Boiler 2 were caused by a malfunction due to limestone feed problems.
- On December 26, 2008, any excess emissions from Boiler 2 were caused by a malfunction due to wet coal.
- On December 27, 2008, any excess emissions from Boiler 1 were caused by a malfunction due to boiler load change and plant problems.
- On December 27, 2008, any excess emissions from Boiler 1 may have been the result of a malfunction due to undetermined causes.

In response to the allegations set forth in **Paragraphs 32 and 33** of Count I of the Complaint, any excess emissions during the period January - March, 2009 were caused by sudden and unpreventable malfunctions. Specifically,

- On January 3, 2009, any excess emissions from Boiler 1 were caused by a malfunction due to sudden and unexpected plant problems.
- On January 6, 2009, any excess emissions from Boiler 1 were caused by a malfunction due to sudden and unexpected plant problems.

- On January 10, 2009, any excess emissions from Boiler 2 may have been the result of a malfunction due to undetermined causes.

- On January 12, 2009, any excess emissions from Boiler 1 were caused by a malfunction due to sudden and unexpected plant problems.

- On January 16, 2009, , any excess emissions from Boiler 1 were caused by a malfunction due to sudden and unexpected plant problems.

- On January 26, 2009, any excess emissions from Boiler 1 were caused by a malfunction due to a coal/lime feed system problems.

- On January 27, 2009, any excess emissions from Boiler 1 may have been the result of a malfunction due to undetermined causes.

- On January 29, 2009, any excess emissions from Boiler 1 were caused by a malfunction due to computer control issues.

- On February 2, 2009, any excess emissions from Boiler 1 were caused by a malfunction due to a coal/lime feed system problem.

In response to the allegations set forth in **Paragraph 35** of Count I of the Complaint, any excess emissions during the period July - September, 2009 were caused by malfunctions. Specifically,

- On August 4, 2009, any excess emissions from Boiler 2 were caused by a malfunction due to loss of air pressure which caused the boilers and turbine to trip.

- On August 25, 2009, any excess emissions from Boiler 1 were caused by a malfunction due to drag conveyor chute pluggage issues.

- On September 25, any excess emissions from Boiler 2 were caused by a malfunction due to L-Valve problems.

In response to the allegations set forth in **Paragraphs 37 and 38** of Count I of the Complaint, any excess emissions during the period October - December, 2009 were caused by sudden and unpreventable malfunctions. Specifically,

- On October 12, 2009, any excess emissions from Boiler 2 were caused by a malfunction due to the turbine tripping causing the boilers to trip offline.

- On October 15, 2009, any excess emissions from Boiler 2 were caused by a malfunction due to a coal/lime system problem.
- On October 16, 2009, any excess emissions from Boiler 2 were caused by a malfunction due to the turbine tripping causing the boilers to trip offline.
- On November 2, 2009, any excess emissions from Boiler 1 were caused by a malfunction due to communications errors and PLC issues.
- On November 2, 2009, any excess emissions from Boiler 2 were caused by a malfunction due to communications errors and PLC issues.
- On November 8, 2009, any excess emissions from Boiler 1 were caused by a malfunction due to L valve control issues.
- On December 8, 2009, any excess emissions from Boiler 2 were caused by a malfunction due to shutdown boilers for repair.
- On December 9, 2009, any excess emissions from Boiler 2 were caused by a malfunction due to a coal/lime feed system problem.
- On December 17, 2009, any excess emissions from Boiler 2 were caused by a malfunction due to L valve control issues.
- On December 23, 2009, any excess emissions from Boiler 1 were caused by a malfunction due to limestone feed problems.
- On December 25, 2009, any excess emissions from Boiler 1 were caused by a malfunction due to a coal/lime feed system problem.
- On December 26, 2009, any excess emissions from Boiler 1 were caused by a malfunction due to wet coal issues.
- On December 30, 2009, any excess emissions from Boiler 1 were caused by a malfunction due to L valve control issues.

In response to the allegations set forth in **Paragraphs 40 and 41** of Count I of the Complaint, any excess emissions during the period January - March, 2010 were caused by sudden and unpreventable malfunctions. Specifically,

- On February 15, 2010, any excess emissions from Boiler 1 were caused by a malfunction due to L valve control problems.
- On March 2, 2010, any excess emissions from Boiler 2 may have been the result of a malfunction due to undetermined causes.

- On March 3, 2010, any excess emissions from Boiler 1 were caused by a malfunction due to coal/lime feed problems.

- On March 10, 2010, any excess emissions from Boiler 1 were caused by a malfunction due to coal/lime feed problems.

In response to the allegations set forth in **Paragraph 43** of Count I of the Complaint, any excess emissions since March 2010 have been caused by sudden and unpreventable malfunctions. Specifically,

- On April 21, 2010, any excess emissions from Boiler 1 were caused by a malfunction due to rapid boiler load change.

- On April 22, 2010, any excess emissions from Boiler 2 were caused by a malfunction due to cyclone issues resulting in boiler going down.

- On April 23, 2010, any excess emissions from Boiler 1 were caused by a malfunction due to erratic solids flow issues.

- On May 13, 2010, any excess emissions from Boiler 1 were caused by a malfunction due to cyclone pluggage issues.

- On May 19, 2010, any excess emissions from Boiler 1 were caused by a malfunction due to cyclone pluggage issues.

- On June 19, 2010, any excess emissions from Boiler 1 were caused by a malfunction due to cyclone pluggage issues.

- On June 21, 2010, any excess emissions from Boiler 1 were caused by a malfunction due to cyclone pluggage issues.

- On July 7, 2010, any excess emissions from Boiler 2 were caused by a malfunction due to problems with the L valve flow.

- On July 8, 2010, any excess emissions from Boiler 1 were caused by a malfunction due to a coal/lime feed system problem.

- On July 10, 2010, any excess emissions from Boiler 1 were caused by a malfunction due to a coal/lime feed system problem.

- On July 11, 2010, any excess emissions from Boiler 1 were caused by a malfunction due to problems with the cyclone.

- On July 12, 2010, any excess emissions from Boiler 1 were caused by a malfunction due to problems with the cyclone.

- On July 14, 2010, any excess emissions from Boiler 1 were caused by a malfunction due to excessive flow from the L valve into boiler.
- On July 17, 2010, any excess emissions from Boiler 1 may have been the result of a malfunction due to undetermined causes.
- On July 20, 2010, any excess emissions from Boiler 1 were caused by a malfunction due to limestone feed problems.
- On July 21, 2010, any excess emissions from Boiler 1 were caused by a malfunction due to a cyclone plug and boiler shutdown.
- On July 25, 2010, any excess emissions from Boiler 1 were caused by a malfunction due to a limestone feed problem.
- On August 11, 2010, any excess emissions from Boiler 1 were caused by a malfunction due to cyclone pluggage issues.
- On September 8, 2010, any excess emissions from Boiler 2 were caused by a malfunction due to flow issue with L valve.
- On September 17, 2010, any excess emissions from Boiler 2 were caused by a malfunction due to flow issue with the L valve.
- On September 23, 2010, any excess emissions from Boiler 2 were caused by a malfunction due problems with air flow controls.
- On September 29, 2010, any excess emissions from Boiler 2 were caused by a malfunction due to limestone feed issues.
- On October 5, 2010, any excess emissions from Boiler 2 were caused by a malfunction due to wet limestone issues.
- On October 27, 2010, any excess emissions from Boiler 1 were caused by a malfunction due to a coal/lime feed system problem.
- On November 4, 2010, any excess emissions from Boiler 1 were caused by a malfunction due to a coal/lime feed system problem.
- On November 13, 2010, any excess emissions from Boiler 2 were caused by a malfunction due to a coal/lime feed system problem.
- On December 23, 2010, any excess emissions from Boiler 1 were caused by a malfunction due to a coal/lime feed system issue.
- On January 30, 2011, any excess emissions from Boiler 1 were caused by a malfunction due to cyclone pluggage issues.

- On February 19, 2011, any excess emissions from Boiler 1 were caused by a malfunction due to a gearbox failure.
- On February 21, 2011, any excess emissions from Boiler 2 were caused by a malfunction due to the combustor bed level being higher than normal.
- On July 25, 2012, any excess emissions from Boiler 1 were caused by a malfunction due to a failure of the boiler fan.
- On August 7, 2011, any excess emissions from Boiler 2 were caused by a malfunction due to the combustor bed level being higher than normal.
- On December 8, 2011, any excess emissions from Boiler 1 were caused by manufacturer's defect in the valve.
- On August 29, 2012, any excess emissions from Boiler 1 were caused by a malfunction due to a L valve problem in the boiler.
- On September 18, 2012, any excess emissions from Boiler 1 were caused by a malfunction due to PLC rack failure.
- On September 22, 2012, any excess emissions from Boiler 1 were caused by a malfunction due to a drag conveyor choking up.
- On September 30, 2012, any excess emissions from Boiler 1 were caused by a malfunction due to lower L valve lost feed.
- On October 30, 2012, any excess emissions from Boiler 1 were caused by a malfunction due to limestone in the end coal bunker.
- On November 6, 2012, any excess emissions from Boiler 2 were caused by a malfunction due to the turbine tripping causing the boilers to trip offline.
- On November 16, 2012, any excess emissions from Boiler 1 were caused by a malfunction due to a loss of solids recycle flow.
- On December 9, 2012, any excess emissions from Boiler 2 were caused by a malfunction due to a cyclone choke.
- On December 28, 2012, any excess emissions from Boiler 1 were caused by a malfunction due to a cyclone choke.
- On January 6, 2013, any excess emissions from Boiler 2 were caused by a malfunction due to an imbalanced coal/lime feed rate.
- On January 16, 2013, any excess emissions from Boiler 1 were caused by a malfunction due to the L valve choking the cyclones.

- On January 19, 2013, any excess emissions from Boiler 1 were caused by a malfunction due to a choked cyclone.
- On January 20, 2013, any excess emissions from Boiler 1 were caused by a malfunction due to equipment control problems/L valve control issues.
- On February 5, 2013, any excess emissions from Boiler 1 were caused by a malfunction due to low boiler system air pressure/cyclone chokes.
- On March 18, 2013, any excess emissions from Boiler 1 were caused by a malfunction due to L valve flowing uncontrollably.
- On May 11, 2013, any excess emissions from Boiler 1 were caused by a malfunction due to control system problems.
- On August 1, 2013, any excess emissions from Boiler 2 were caused by a malfunction due to choked cyclones.
- On August 21, 2013, any excess emissions from Boiler 2 were caused by a malfunction due to the coal chute being plugged.
- On August 23, 2013, any excess emissions from Boiler 1 were caused by a malfunction due to the coal chute being plugged.
- On September 2, 2013, any excess emissions from Boiler 2 were caused by a malfunction due to the limestone gravimetric feeder being jammed.
- On November 1, 2013, any excess emissions from Boiler 1 were caused by a malfunction due to the coal chute being plugged from wet coal.
- On November 7, 2013, any excess emissions from Boiler 2 were caused by a malfunction due to high temperatures in the bed causing the boiler to shut down.
- On November 8, 2013, any excess emissions from Boiler 2 were caused by a malfunction due to secondary air section expansion joint failure.
- On November 12, 2013, any excess emissions from Boiler 2 were caused by a malfunction due to taking the boiler down to minimum fire for repairs.
- On December 3, 2013, any excess emissions were from Boiler 2 caused by a malfunction due to boiler equipment control problems.
- On December 7, 2013, any excess emissions from Boiler 2 were caused by a malfunction due to multiple air actuated valve failures.

2. Respondent states that to the extent the Board determines that Respondent, at any time, did not have a required operating permit, Respondent had submitted a timely and complete application for a CAAPP permit and was operating under a valid construction permit and therefore is not subject to enforcement pursuant to 415 ILCS 5/39.5(5)(h) and Condition 14 of Construction Permit No. 03070016. Specifically, Respondent was issued a valid construction permit on February 25, 2004 and began construction under the permit in March, 2004.

3. Respondent states that Counts I, II, and II of this Complaint are barred, in whole or in part, by the applicable statute of limitations, including but not limited to the statute of limitations set forth in 28 U.S.C. § 2462. Specifically, the 5-year statute of limitations under 28 U.S.C. § 2462 accrued in this case when "construction commence[d] with a permit in hand." *U.S. v. Midwest Generation LLC et al.*, 720 F.3d 644 (7th Cir. July 8, 2013). Respondent commenced construction in March, 2004 under its valid construction permit issued on February 25, 2004. Accordingly, Complainant's initial Complaint filed May 11, 2009 was untimely.

DATED: October 14, 2014

Respectfully submitted,

TATE & LYLE INGREDIENTS AMERICAS, LLC

By: James T. Curtis
One of Its Attorneys

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CERTIFICATE OF SERVICE

Ilana R. Morady, an attorney, certifies that she caused a true and correct copy of the enclosed NOTICE OF FILING and RESPONDENT'S ANSWER TO FOURTH AMENDED COMPLAINT to be served via U.S Mail, postage prepaid, this 14th day of October, 2014.

To: Kathryn A. Pamenter
Assistant Attorney General
Environmental Bureau
69 W. Washington St., 18th Fl.
Chicago, IL 60602

Carol Webb, Hearing Officer
Illinois Pollution Control Board
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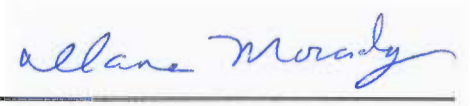

Ilana R. Morady