

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS)	
)	
Complainant,)	
)	PCB 04-137
v.)	(Enforcement)
)	
CII Carbon, L.L.C.,)	
)	
Respondent.)	

NOTICE OF FILING

To: See Attached Service List

PLEASE TAKE NOTICE that on **Friday, June 12, 2015**, I filed with the Office of the Clerk of the Pollution Control Board, **Respondent's Answer to Third Amended Complaint**, copies of which are attached hereto and herewith served upon you.

Respectfully submitted,

CII CARBON, L.L.C.

BY: 

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This Filing Is Being Submitted Electronically

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing **Respondent's Answer to Third Amended Complaint** was filed electronically with the Clerk of the Illinois Pollution Control Board and served upon the parties below by U.S. First Class Mail and Electronic Mail on Friday, June 12, 2015

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,

Complainant,

vs.

CII CARBON, L.L.C., a foreign
corporation,

Respondent.

PCB No. 04-137
(Enforcement)

**RESPONDENT'S ANSWER TO
THIRD AMENDED COMPLAINT**

Now comes the CII Carbon LLC, ("Respondent"), by and through its attorneys, Drinker Biddle & Reath LLP, for its Answer to the Third Amended Complaint ("Complaint"), states 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 (2012).

ANSWER:

Respondent admits that the Attorney General purports to bring this Complaint on her own motion and at the behalf of the Illinois EPA pursuant to the Illinois Environmental Protection Act.

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 in proceedings before the Illinois Pollution Control Board ("Board").

ANSWER:

Respondent admits that Paragraph 2 of Count I refers to the Act and avers that the Act speaks for itself.

3. 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 in proceedings before the Illinois Pollution Control Board ("Board").

ANSWER:

Respondent admits that Complainant provided notice required by the referenced Section of the Act with respect to the filing of the initial Complaint but denies that such notice was subsequently provided with respect to the; subsequent; amended complaints. The remaining statements in Paragraph 3 of Count 1 are legal conclusions that require no answer.

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.

ANSWER:

Respondent admits that allegations of Paragraph 4 of Count I. Respondent answering further states that its name CII Carbon, LLC. was officially changed in February 2008 to Rain CII Carbon, LLC.

5. The Respondent operates a facility which is located at R. R. 3, P.O. Box 719, Robinson, Crawford County, Illinois and which produces calcined coke for the aluminum industry

("Facility"). The Facility consists of two production lines, each of which consists of a rotary kiln. Each kiln is approximately 180 feet long and 10 feet in diameter and is equipped with a 50 mmbtu/hr natural gas burner. Each kiln is equipped with a pyroscrubber, which is operated above 2000°F, in order to control the emission of particulate matter generated during the kilning process. The kilns are designated "Kiln #1" and "Kiln #2," respectively. After kilning the coke to 1200°, the heated coke then passes into an attached rotary cooler. The coolers are designated "Cooler #1" and "Cooler #2," respectively. Each cooler, in turn, is equipped with a baghouse, for controlling particulate matter emissions generated during the coke cooling process. The baghouses are designated "Baghouse #1" and "Baghouse #2," respectively. The final product of the kilning process is a high-purity carbon compound that is used to make anodes for the aluminum industry.

ANSWER:

Respondent denies that its facility is located at R. R. 3, P.O. Box 719, Robinson, Crawford County, Illinois. Answering further Respondent states that the facility address is 12187 East 950th Avenue, Robinson, Crawford County, Illinois. Answering further Respondent states it is required to keep the temperature of the pyroscrubbers above 1800°F and routinely operates the pyroscrubbers up to the range of 2000°F. Answering further Respondent states that the term is "calcining" not "kilning" to describe the process conducted and the type of coke produced at the facility; and the coke calcining process operates up to 2000°F. Respondent admits the remaining allegations of Paragraph 5 of Count I.

6. Emissions from the Facility include particulate matter.

ANSWER:

Respondent admits the allegations of Paragraph 6 of Count I.

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

ANSWER:

Respondent admits the allegations of Paragraph 7 of Count I regarding issuance of the Operating Permit but denies such permit is attached to the Third Amended Complaint.

8. Section 9 of the Act, 415 ILCS 5/9 (2012), 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;

ANSWER:

CII admits the allegations of Paragraph 8 of Count I accurately quotes the selected section of the Act and avers that the Act speaks for itself.

9. Section 3.115 of the Act, 415 ILCS 5/3.115 (2012), 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.

ANSWER:

Respondent admits the allegations of Paragraph 9 of Count I accurately quotes the selected section of the Act and avers that the Act speaks for itself.

10. 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 admits the allegations of Paragraph 10 of Count I accurately quotes the selected section of the Act and avers that the Act speaks for itself.

11. Section 201.141 of the Board 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.

ANSWER:

Respondent admits that Paragraph 11 of Count I accurately quotes the selected section of the Code and avers that the Code speaks for itself.

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

- 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.

ANSWER:

Respondent admits that Paragraph 12 of Count I accurately quotes the selected section of the Code and avers that the Code speaks for itself.

13. Commencing on or before April 12, 1998, and continuing to on or after April 23, 1998, Respondent operated the Facility's Kiln #2 and #2 Cooler in such a manner so as to exceed the particulate standard set forth in Section 212.321 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 212.321.

ANSWER:

Respondent admits that it operated the Facility's #2 Kiln and #2 Cooler on the sited dates in Paragraph 13 of Count I with the #2 Cooler emissions diverted to the #2 Pyroscrubber bypassing the #2 Baghouse. Further answering, the remaining allegations of Paragraph 13 of Count I are legal conclusions to which no answer is required.

14. By violating Section 212.321 of the Board Air Pollution Regulations, 35 Ill, Adm. Code 212.321, Respondent also violated Section 201.141 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.141, thereby violating Section 9(a) of the Act, 415 ILCS 5/9(a) (2012).

ANSWER:

The allegations of Paragraph 14 of Count I are legal conclusions to which no answer is required.

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 Section 9(a) of the Act, 415 ILCS 5/9(a) (2012), and Sections 201.141 and 212.321 of the Board Air Pollution 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) (2012), impose a civil penalty of up to fifty thousand dollars (\$50,000) for each violation and an additional penalty of ten thousand dollars (\$10,000) for each day during which such violations continued;

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2012), awarding to Complainant its costs and reasonable attorney's fees; and

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

ANSWER:

Respondent denies that Complainant is entitled to any relief as sought in Count I.

COUNT II
PERMIT CONDITION VIOLATIONS

1-8. Complainant realleges and incorporates herein by reference paragraphs 1 through 7 and 9 of Count I as paragraphs 1 through 8 of this Count II.

ANSWER:

Respondent adopts its answers to Paragraphs 1 through 7 and 9 of Count I as its answers to paragraphs 1 through 8 of this Count II.

9. Section 9(b) of the Act, 415 ILCS 5/9(b) (2012), 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;

ANSWER:

Respondent admits the allegations of Paragraph 9 of Count II accurately quotes the selected section of the Act and avers that the Act speaks for itself.

10. Standard Condition #7 of the Operating Permit, 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.

ANSWER:

Respondent admits the allegations of Paragraph 10 of Count II accurately quotes the selected section of the Act Operating Permit and avers that the Operating Permit speaks for itself.

11. Standard Condition #9 of the Operating Permit, 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.

ANSWER:

Respondent admits the allegations of Paragraph 11 of Count II accurately quotes the selected section of the Operating Permit and avers that the Operating Permit speaks for itself.

12. Commencing on or before April 12, 1998, and continuing to on or after April 23, 1998, Robinson Carbon, Inc., operated the #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 the #2 Kiln with a large hole in the archway of the pyro-scrubber.

ANSWER:

Respondent admits that Robinson Carbon, Inc. operated #2 Kiln on April 12, 1998, in response to an unexpected failure of the bags in #2 Baghouse, when it reduced production rates and diverted #2 Cooler emissions from #2 Baghouse to #2 Pyroscrubber. Respondent further

answers that it continued to operate in this manner while it obtained new bags to replace the damaged bags in the #2 Baghouse and completed the installation of the new bags on April 23, 1998 at which time #2 Cooler emissions were directed back to the #2 Baghouse. Respondent admits that Robinson Carbon, Inc. continued to operate #2 Kiln after a small portion of the refractory bricks fell from their support structure on June 8, 1999 resulting in a hole in the archway refractory until it shut down the #2 Kiln on July 10, 1999 and repaired the refractory. Respondent denies the remaining allegations of Paragraph 12 of Count II.

13. Further, Respondent failed to provide notice to the Agency of the aforesaid breakdowns, all in violation of Standard Conditions #7, 9 and 9(a) of Respondent's Operating Permit and Section 9(b) of the Act, 415 ILCS 5/9(a) (2012)L.

ANSWER:

Respondent states that it sent a request for a Provisional Variance to the Agency on April 17, 1998 regarding the operation of #2 Kiln in the bypass mode from April 12 to April 23, 1998 as set forth in answer to Paragraph 12 of Count II. Respondent admits that no other notice was sent to the Agency regarding operation in the bypass mode in April of 1998 and no notice was sent to the Agency regarding operation with the hole as set forth in Paragraph 12 of Count II above. Respondent denies that any notice was required.

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

(2012); and Standard Conditions #7, 9 and 9(a) of Respondent's Operating Permit;

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) (2012), impose a civil penalty of up to fifty thousand dollars (\$50,000) for each violation that occurred and an additional penalty of ten thousand dollars (\$10,000) for each day during which such violations continued;

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2012), awarding to Complainant its costs and reasonable attorney's fees; and

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

ANSWER:

Respondent denies that Complainant is entitled to any relief as sought in Count II.

COUNT III
REPORTING AND RECORDKEEPING VIOLATIONS

1-6. Complainant realleges and incorporates herein by reference paragraphs 1 through 6 of Count I as paragraphs 1 through 6 of this Count III.

ANSWER:

Respondent adopts its answers to Paragraphs 1-6 of Count I as its answers to Paragraphs 1-6 of Count III.

7. On September 4, 2003, the Illinois EPA issued CAAPP permit 95120092 ("CAAPP Permit"), which was applicable to all of the sources at Respondent's Facility. Subsequent revisions to the CAAPP Permit were issued by Illinois EPA on March 12, 2004 and May 8, 2006. (Copies of Respondent's CAAPP Permit and the March 12, 2004 and May 8, 2006 permit revisions are attached to this Complaint as Exhibits B, C, and D, respectively.)

ANSWER:

Respondent admits the allegations of Paragraph 7 of Count III regarding issuance and revision in 2006 of the 2003 CAAPP Permit. Respondent denies that any permits are attached to the Third Amended Complaint Respondent. Answering further Respondent does not have a copy of any 2004 revision in its files and therefore can neither admit nor deny such revision occurred.

8. Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (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” ... 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.

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

ANSWER:

Respondent admits the allegations of Paragraph 8 of Count III accurately quotes the selected sections of the Act and avers that the Act speaks for itself.

9. Section 39.5(2) of the Act, 415 ILCS 5/39.5(2) (2012), provides, in relevant part, as follows:

(2) Applicability.

(a) Sources subject to this Section shall include:

(i) Any major source as defined in paragraph (c) of this subsection

* * *

(c) For purposes of this Section the term “major source” means any source that is:

ii. A major stationary source of air pollutants, as defined in Section 302 of the Clean Air Act, that directly emits or has the potential to emit, 100 tpy or more of any air pollutant subject to regulation (including any major source of fugitive emissions of any such pollutant, as determined by rule by USEPA). For purposes of this subsection, "fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening. The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of Section 302(j) of the Clean Air Act, unless the source belongs to one of the following categories of stationary source:

* * *

ANSWER:

Respondent admits the allegations of Paragraph 9 of Count III accurately quotes the selected section of the Act and avers that the Act speaks for itself.

10. The Facility is a major source, for purposes of Section 39.5(2) because it emits more than 100 tons per year nitrogen oxides ("NO_x"), particulate matter ("PM"), and sulfur dioxide (SO₂).

ANSWER:

Respondent admits that it emits more than 100 tons of NO_x and SO₂ per year. Respondent answers that its PM emissions have normally been less than 100 tons per year and on occasion have exceeded 100 tons per year. Respondent denies the remaining allegations of Paragraph 10 of Count III which state a legal conclusion for which no answer is required.

11. Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2012), provides 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 admits the allegations of Paragraph 11 of Count III accurately quotes the selected section of the Act and avers that the Act speaks for itself.

12. Condition 5.7.1 of the CAAPP Permit provides:

5.7.1 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 probable cause of such deviations, and any corrective actions or preventative measures taken,

ANSWER:

Respondent admits the allegations of Paragraph 12 of Count III accurately quotes the selected section of the 2003 CAAPP Permit and avers that the CAAPP Permit speaks for itself.

13. Condition 7.1.9 of Respondent's CAAPP Permit 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.

ANSWER:

Respondent admits the allegations of Paragraph 13 of Count III accurately quotes the selected section of the 2003 CAAPP Permit and avers that the CAAPP Permit speaks for itself.

14. Condition 7.2.5 of Respondent's CAAPP Permit provides:

7.2.5 Operational and Production Limits and Work Practices

- a. Both 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 10 212.321 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,

ANSWER:

Respondent admits the allegations of Paragraph 14 of Count III accurately quotes the selected section of the 2003 CAAPP Permit and avers that the CAAPP Permit speaks for itself.

15. Condition 7.2.9(a)(3) of Respondent's CAAPP Permit 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.

ANSWER:

Respondent admits the allegations of Paragraph 15 of Count III accurately quotes the selected section of the 2003 CAAPP Permit and avers that the CAAPP Permit speaks for itself.

16. Condition 7.2.10 of Respondent's CAAPP Permit 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.

ANSWER:

Respondent admits the allegations of Paragraph 16 of Count III accurately quotes the selected section of the 2003 CAAPP Permit and avers that the CAAPP Permit speaks for itself.

17. Condition 7.3.9(a)-(c) of Respondent's CAAPP Permit provides:

7.3.9 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

ANSWER:

Respondent admits the allegations of Paragraph 17 of Count III accurately quotes the selected section of the 2003 CAAPP Permit and avers that the CAAPP Permit speaks for itself.

18. Condition 5.6.6(a) of Respondent's CAAPP Permit 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.

ANSWER:

Respondent admits the allegations of Paragraph 18 of Count III accurately quotes the selected section of the 2003 CAAPP Permit and avers that the CAAPP Permit speaks for itself.

19. On December 18, 2003, Illinois EPA conducted an inspection of the Facility ("December 2003 Inspection"). While reviewing facility records which Respondent is required to maintain as a condition of its CAAPP Permit, Illinois EPA determined that, commencing in January 2003 and continuing through July 13, 2003, as well as from 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 and Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2012).

ANSWER:

Respondent admits that the Illinois EPA conducted an inspection on December 18, 2003 and inspected records during the inspection. Answering further Respondent states that beginning in early 2003 Respondent completed installation and began using an electronic process and data storage system that maintained electronic records which included all the cooler gas diversion events. Answering further Respondent states that the first time period set forth in Paragraph 19 of Count III is prior to the September 4, 2003 issuance and effective date of the CAAPP Permit. Answering further Respondent states that the second time period set forth in Paragraph 19 of Count III occurred after the plant had implemented a more detailed approach to evaluate the cooler gas temperature diversions which had plant operators noting any diversion events in their daily logs and discuss each event in the daily meeting with the plant engineer. Answering further Respondent states that the electronic records contained all the cooler gas diversion events. Respondent admits that separate hard copies of the baghouse trips for the periods set forth in Paragraph 19 of Count III were not maintained. Respondent denies the remaining allegations in Paragraph 19 of Count III as legal conclusions which do not require an answer.

20. Additionally, during the December 2003 Inspection, Illinois EPA determined that, on some date prior to December 18, 2003, better known to Respondent, and continuing through December 18, 2003, 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 in violation of Condition 7.2.5 of its CAAPP Permit and Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2012).

ANSWER:

Respondent denies that it did not check the cooler baghouses and pyroscrubber vents for

visible opacity emission using Method 22 by observers trained in Method 22 and used improper forms to record the readings. Respondent denies the remaining allegations of Paragraph 20 of Count III as legal conclusions which do not require an answer.

21. Finally, during the December 2003 Inspection, Illinois EPA determined that Respondent was not keeping the records required by Conditions 7.1.9(a)-(c), 7.2.9(a)-(c), and 7.3.9(a)-(c) of Respondent's CAAPP Permit, and that these records were therefore not available for inspection by Illinois EPA.

ANSWER:

Respondent answers that it maintained the records required by Conditions 7.1.9(a)-(c), 7.2.9(a)-(c), and 7.3.9(a)-(c) of Respondent's 2003 CAAPP Permit electronically pursuant to Condition 5.6.6(b) of said permit. Respondent admits that at the time of the inspection it encountered computer issues limited the ability to show the electronic records to the inspector and that it developed new templates following the inspection to overcome these recovery issues. Respondent denies the remaining allegations of Paragraph 21 of Count III.

22. On April 2, 2008, Illinois EPA conducted another inspection of the Facility ("April 2008 Inspection"). During the April 2008 Inspection, Illinois EPA also determined that Respondent was failing 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, as well as Section 39.5(6)(a) of the Act, 415 ILCS 39.5(6)(a) (2012),

ANSWER:

Respondent admits that the Illinois EPA conducted an inspection on April 2, 2008 and inspected records during the inspection. Respondent denies the remaining allegations of

Paragraph 22 of Count III.

23. Additionally, during the April 2008 Inspection, Illinois EPA also determined that the Respondent was failing 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, as well as Section 39.5(6)(a) of the Act, 415 ILCS 39.5(6)(a) (2012).

ANSWER:

Respondent admits that the Illinois EPA conducted an inspection on April 2, 2008 and inspected records during the inspection. Respondent admits that separate hard copies of the baghouse trips for the periods set forth in Paragraph 23 of Count III were not maintained. Answering further Respondent states its Process Data Historian electronic data storage system contained records that had stored cooler gas diversion events and that Respondent provided hard copies for the dates set forth in Paragraph 23 of I to the inspector following his inspection. Respondent denies the remaining allegations of Paragraph 23 of Count III.

24. Additionally, on November 10, 2009, during a subsequent Illinois EPA inspection of the Facility ("November 2009 Inspection"), Illinois EPA determined that Respondent had failed to keep the records documenting the Facility's compliance with Condition 7.2.5 of its CAAPP Permit, by failing to perform the required Method 22 readings on the following dates in 2009; February 11 and 21, May 6, 8, 13, and 27, September 6, 24, and 26, and October 6, 10, and 22.

ANSWER:

Respondent admits that the Illinois EPA conducted an inspection on November 10, 2009 and inspected records during the inspection. Respondent denies that it did not perform the required observation on May 27, 2009 as alleged in Paragraph 24 of Count III. Answering

further Respondent admits that it did not perform observations on the remaining dates referenced above because it was raining and that it so indicated on the observation records it maintained.

25. Finally, on May 3, 2012, during another Illinois EPA inspection of the Facility (“May 2012 Inspection”), Illinois EPA determined that Respondent had failed to keep the records documenting the Facility’s compliance with Condition 7.2.5 of its CAAPP Permit on the following dates: October 23, 2010, February 4, 2011, and March 2 through 5, 2012. Additionally, during the May 2012 Inspection, Illinois EPA determined that Respondent had also failed to report deviations from Respondent’s CAAPP Permit to Illinois EPA, as required by Condition 5.7.1 of the CAAPP Permit, relative to deviations which occurred at the Facility on or about May 20 and 24, 2011.

ANSWER:

Respondent admits that the Illinois EPA conducted an inspection on May 3, 2012 and inspected records during the inspection. Respondent answers that on March 23, 2012 it submitted a deviation notice to the Illinois EPA concerning the results of an internal audit it had conducted which found that it did not have copies of the visible emissions reports showing compliance with Condition 7.2.5 of its CAAPP Permit. Answering further Respondent stated in this deviation report that it believed that the observations had been conducted on October 23, 2010 and February 4, 2011. Respondent denies the remaining allegations of Paragraph 25 of Count III. Answering further denies that it did not have records documenting compliance with Condition 7.2.5 of its CAAPP Permit for the period of May 2 to 5, 2012 and denies that any deviation reports for dates are required. Respondent denies the remaining allegations contained in Paragraph 25 of Count III.

26. Respondent, by failing to keep the aforementioned records which were required by its CAAPP Permit, thereby violated Conditions 7.1.9(a)-(b), 7.2.9(c)-(d), and 7.3.9(a)-(c), thereby also violating Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2012).

ANSWER:

Respondent denies the allegation that it failed to maintain records as claimed in Paragraph 26 of Count III. The remaining allegations of Paragraph 26 of Count III are legal conclusions to which no answer is required.

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 Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(b) (2012), and Conditions 7.1.9, 7.2.5, 7.3.9(c)-(d). 7.2.10, and 5.6.6 of its CAAPP Permit, 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) (2012), 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) (2012), awarding to Complainant its costs and reasonable attorney's fees; and

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

ANSWER:

Respondent denies that Complainant is entitled to any relief as sought in Count III.

COUNT IV

MAINTENANCE AND NOTIFICATION VIOLATIONS

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

ANSWER:

Respondent adopts its answers to Paragraphs 1 through 11 of Count III as its answers to paragraphs 1 through 11 of this Count IV.

12. Condition 7.2.3(a)(iii) of Respondent's CAAPP Permit 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.

ANSWER:

Respondent admits the allegations of Paragraph 12 of Count IV accurately quotes the selected section of the 2003 CAAPP Permit and avers that the CAAPP Permit speaks for itself.

13. Condition 7.2.10 of Respondent's CAAPP Permit 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.

ANSWER:

Respondent admits the allegations of Paragraph 13 of Count IV accurately quotes the selected section of the 2003 CAAPP Permit and avers that the CAAPP Permit speaks for itself.

14. Condition 9.2.2 of Respondent's CAAPP Permit 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.

ANSWER:

Respondent admits the allegations of Paragraph 14 of Count IV accurately quotes the selected section of the 2003 CAAPP Permit and avers that the CAAPP Permit speaks for itself.

15. Commencing on some date before February 4, 2004, and continuing until at least February 10, 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 and in violation of Section 39.5(6)(a) of the Act, 415 ILCS

5/39.5(6)(a) (2012).

ANSWER:

Respondent denies the allegations of Paragraph 15 of Count IV.

16. On February 8, 2004, and continuing until 10:30 a.m. 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 Condition 7.2.3(g)(iii) of Respondent's CAAPP Permit, and Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2012).

ANSWER:

Respondent admits that it mistakenly only reduced the #1 Kiln feed rate to 21 tons/hour instead of 18 tons/hour during the failure of the #1 Dust Collector fan during the time period of operation set forth in Paragraph 16 of Count IV.

17. 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, thereby violating Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2012).

ANSWER:

Respondent denies the allegations of Paragraph 17 of Count IV.

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 Section 39.5(6)(a) of the Act, 415 ILCS

5/39.5(6)(a) (2012); and Conditions 7.2.3, 7.2.10, and 9.2.2 of Respondent's CAAPP Permit;

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) (2012), 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) (2012), awarding to Complainant its costs and reasonable attorney's fees; and

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

ANSWER:

Respondent denies that Complainant is entitled to any relief as sought in Count IV.

COUNT V
RECORDKEEPING VIOLATIONS

1-14. Complainant realleges and incorporates by reference paragraphs 1 through 11, 13, 15, and 19 of Count III as paragraphs 1 through 14 of this Count V.

ANSWER:

1-14. Respondent adopts its answers to Paragraphs 1 through 11, 15 and 19 of Count III as its answers to paragraphs 1 through 14 of this Count V.

15. Condition 5.6.1 of Respondent's CAAPP Permit 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.

ANSWER:

Respondent admits the allegations of Paragraph 15 of Count V accurately quotes the selected section of the 2003 CAAPP Permit and avers that the CAAPP Permit speaks for itself.

16. Condition 7.4.9 of Respondent's CAAPP Permit 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)(h) 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.

ANSWER:

Respondent admits the allegations of Paragraph 16 of Count V accurately quotes the selected section of the 2003 CAAPP Permit and avers that the CAAPP Permit speaks for itself. Answering further Respondent states that the 2003 CAAPP Permit lists a 500 gallon gasoline storage in Section 7.4.2 and that the revised CAAPP Permit lists a 250 gallon gasoline tank in Section 7.4.2. Answering further Respondent did not have in place a 500 gallon gasoline tank at the time of issuance of the 2003 CAAPP Permit.

17. Condition 9.6.1 of Respondent's CAAPP Permit 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,

ANSWER:

Respondent admits the allegations of Paragraph 17 of Count V accurately quotes the selected section of the 2003 CAAPP Permit and avers that the CAAPP Permit speaks for itself.

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 and in violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2012).

ANSWER:

Respondent denies the allegations in Paragraph 18 of Count V. Answering further Respondent admits that the records it maintained contained an emission total for the twelve months beginning with January through December and did not contain a running total emissions for each month and the previous eleven months ("rolling 12 month total"). Answering further Respondent after the 2005 Inspection revised its records by the addition of a rolling 12 month total, sent such revised record format to the inspector and obtained the inspector's written approval of the revised record format.

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 and Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2012),

ANSWER:

Respondent denies the allegations in Paragraph 19 of Count V. Answering further Responded admits that the records it maintained contained an emission total for the twelve months beginning with January through December and did not contain a running total emissions for each month and the previous eleven months ("rolling 12 month total"). Answering further Respondent after the 2005 Inspection revised its records by the addition of a rolling 12 month total, sent such revised record format to the inspector and obtained the inspector's written approval of the revised record format.

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 and in violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2012),

ANSWER:

Respondent denies the allegations in Paragraph 20 of Count V. Answering further Responded admits that the records it maintained contained an emission total for the twelve months beginning with January through December and did not contain a running total emissions for each month and the previous eleven months ("rolling 12 month total"). Answering further Respondent after the 2005 Inspection revised its records by the addition of a rolling 12 month total, sent such revised record format to the inspector and obtained the inspector's written approval of the revised record format.

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 and in violation of Section 39.5(6)(1) of the Act, 415 ILCS 5/39.5(6)(a) (2012),

ANSWER:

Respondent denies the allegations in Paragraph 21 of Count V. Answering further Respondent admits that the records it maintained contained an emission total for the twelve months beginning with January through December and did not contain a running total emissions for each month and the previous eleven months (“rolling 12 month total”). Answering further Respondent after the 2005 Inspection revised its records by the addition of a rolling 12 month total, sent such revised record format to the inspector and obtained the inspector’s written approval of the revised record format.

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 and Section 39.5(6)(a) of the Act, 415 ILCS /39.5(6)(a) (2012).

ANSWER:

Respondent denies the allegations in Paragraph 22 of Count V.

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 Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2012); as well as Conditions 5.6.1, 5.6.6, 7.1,9, 7.2.9, 7.4.9, and 9.6.1 of Respondent’s CAAPP Permit;

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) (2012), 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) (2012), awarding to Complainant its costs and reasonable attorney's fees; and

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

ANSWER:

Respondent denies that Complainant is entitled to any relief as sought in Count V.

COUNT VI
OPERATION AND NOTIFICATION VIOLATIONS

1-13. Complainant realleges and incorporates paragraphs 1 through 10, 24 and 25 of Count III, as paragraphs 1 through 13 of this Count VI.

ANSWER:

1-13. Respondent adopts its answers to Paragraphs 1 through 10, 24 and 25 of Count III as its answers to paragraphs 1 through 13 of this Count VI.

14. Section 39.5(7)(f)(ii) of the Act, 415 ILCS 5/39.5(7)(t)(ii) (2012) 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,

ANSWER:

Respondent admits the allegations of Paragraph 14 of Count VI accurately quotes the selected section of the Act and avers that the Act speaks for itself.

15. Condition 7.2.3(e) of Respondent's CAAPP Permit provides, as follows:

No person shall cause or allow the emission of sulfur dioxide into the atmosphere from any process emission unit (affected Petroleum Coke Calcining Operations) to exceed 2000 ppm [35 Ill. Adm. Code 301].

ANSWER:

Respondent admits the allegations of Paragraph 15 of Count VI accurately quotes the selected section of the 2003 CAAPP Permit and avers that the CAAPP Permit speaks for itself.

16. Condition 7.2.3(h)(ii) of Respondent's CAAPP Permit provides, in relevant 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.

ANSWER:

Respondent admits the allegations of Paragraph 16 of Count VI accurately quotes the selected section of the 2003 CAAPP Permit and avers that the CAAPP Permit speaks for itself.

17. Condition 7.2.6 of Respondent's CAAPP Permit 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

ANSWER:

Respondent admits the allegations of Paragraph 17 of Count VI accurately quotes the selected section of the 2003 CAAPP Permit and avers that the CAAPP Permit speaks for itself.

18. Condition 5.7.1 of Respondent's CAAPP Permit 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.

ANSWER:

Respondent admits the allegations of Paragraph 18 of Count VI accurately quotes the selected section of the 2003 CAAPP Permit and avers that the CAAPP Permit speaks for itself.

19. At the time of the April 2008 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, as well as Section 39.5(6)(a) of the Act, 415 ILCS 39.5(6)(a) (2012).

ANSWER:

Respondent admits that it explained to the Inspector at the time of the February 13, 2007 inspection that during temporary malfunctions the normal practice was to reduce coke feed rate and air flow rate for the lower combustion of coke which reduces the temperature of the Kiln

thereby requiring an increase in natural gas usage which requires an increase in air flow rate to support complete combustion of this natural gas. Answering further Respondent and the Inspector discussed this practice and the wording of the cited permit condition and the Inspector recommended that Respondent seek a change to permit language. Answering further Respondent sought and was granted a modification of the CAAPP Permit to clarify the cited condition. Respondent denies the remaining allegations in Paragraph 19 of Count VI.

20. At the time of the April 2008 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, as well as Section 39.5(6)(a) of the Act, 415 ILCS 39.5(6)(a) (2012).

ANSWER:

Respondent admits that it discussed with the Inspector at the time of the April Inspection that when the quantity of quench water was included in the required calculations, the process weight rate limits could be exceeded. Answering further the Inspector recommended that Respondent seek a modification of the cite permit language to not include the quantity of quench water. Answering further Respondent admits that 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 was exceeded V as set forth in Paragraph 20 of Count VI. Respondent answering further states that this limitation on cooling water was based upon an estimate of the amount of water in the permit application. The actual amount of water added is based upon an automated temperature sensor in the cooling system. Respondent further answers that the CAAPP Permit was revised by a letter from the Illinois EPA dated July 15, 2008 which eliminated the limitation

on the amount of water applied to the coke for cooling purposes. Respondent denies the remaining allegations in Paragraph 20 of Count VI.

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

ANSWER:

Respondent admits that no notification was given to the Illinois EPA regarding the minimization of combustion air or the process weight limitation including cooling water referenced in Paragraphs 19 and 20 other than the discussions during the April 2008 inspection and the subsequent requests regarding modifying the permit language referenced in Answers to Paragraphs 19 and 20 above. Respondent denies the remaining allegations in Paragraph 21 of Count VI.

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 Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2012), and Conditions 7.2.3(h)(ii)(D)(2) and 7.2.6 of Respondent's CAAPP Permit;

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) (2012), impose a civil penalty of up to Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and the

pertinent regulations 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) (2012), awarding to Complainant its costs and reasonable attorney's fees; and

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

ANSWER:

Respondent denies that Complainant is entitled to any relief as sought in Count VI.

COUNT VII
FAILURE TO TIMELY SUBMIT ANNUAL EMISSIONS REPORTS

1-10. Complainant realleges and incorporates by reference herein paragraphs 1 through 10 of Count I as paragraphs 1 through 10 of this Count VII,

ANSWER:

1-10. Respondent adopts its answers to Paragraphs 1 through 10 of Count I as its answers to paragraphs 1 through 1 of this Count VII.

11. Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), provides as follows:

The owner or operator of any emission unit or air pollution control equipment, unless specifically exempted in this Section, shall submit to the Agency as a minimum, annual reports detailing the nature, specific emission units and total annual quantities of all specified air contaminant emissions; provided, however, that the Agency may require more frequent reports where necessary to accomplish the purposes of the Act and this Chapter.

ANSWER:

Respondent admits that Paragraph 11 of Count VI accurately quotes the selected section of the Code and avers that the Code speaks for itself.

12. Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102, provides the following definitions:

“Emission Source”: Any equipment or facility of a type capable of emitting specified air contaminants to the atmosphere.

“Owner or Operator”: Any person who owns, leases, controls or supervises an emission source or air pollution control equipment,

ANSWER:

Respondent admits that Paragraph 12 of Count VI accurately quotes the selected section of the Code and avers that the Code speaks for itself.

13. Respondent is an “owner or operator” of an “emission source” as those terms are defined in Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102.

ANSWER:

Respondent admits that it is the owner of the facility described in Paragraph 5 of Count I. Answering further Paragraph 13 of Count VI accurately quotes the selected section of the Code and avers that the Code speaks for itself. Answering further Respondent states that the legal conclusions in Paragraph 13 of Count VI do not require an answer.

14. Respondent is not exempt from the provisions of Section 201.302(a) of the Board Air Pollution Regulations, and therefore obligated to submit annual reports detailing the nature, specific emission units and total annual quantities of all specified air contaminant emissions,

ANSWER:

Respondent answers that Paragraph 14 of Count VI contains legal conclusions for which an answer is not required.

15. Section 254.132(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a), provides as follows:

Failure to file a complete Annual Emissions Report by the applicable deadlines prescribed in Section 254.137(a) of this Subpart shall be a violation of this Part and 35 Ill. Adm. Code 201.302(a).

ANSWER:

Respondent admits that Paragraph 15 of Count VI accurately quotes the selected section of the Code and avers that the Code speaks for itself. Answering further Respondent states that the legal conclusions in Paragraph 15 of Count VI do not require an answer.

16. Section 254,137(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.137(a), provides as follows:

All Annual Emissions Reports are due by May 1 of the year following the calendar year in which the emissions took place.

ANSWER:

Respondent admits that Paragraph 16 of Count VI accurately quotes the selected section of the Code and avers that the Code speaks for itself. Answering further Respondent states that the legal conclusions in Paragraph 16 of Count VI do not require an answer.

17. Respondent did not submit its Annual Emission Reports (“AER”) for calendar year 2011 until July 10, 2012, more than two months after the May 1, 2012 filing deadline.

ANSWER:

Respondent answers that at the time of the inspection on May 4, 2012, the inspector was given an unsigned copy of the AER for calendar year 2011 that had previously been prepared by at Respondent’s corporate office and was sent to the facility personnel and sent to the for submittal to the Illinois EPA. Answering further Respondent admits that submission of the AER for calendar year 2011 was submitted after May 1, 2012 and was received by the Illinois EPA on or about July 10, 2012.

18. Respondent, by failing to timely submit its AER for 2011, thereby violated Section 201,302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Section 254,132(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254,132(a), and thereby also violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2012).

ANSWER:

Respondent answers the Paragraph 18 of Count VII contains legal conclusions that do not require an answer.

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

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

2. Finding that Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2012), Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Section 254.132(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a);

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

4. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2012), impose a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of the Act and pertinent regulations, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day during which such violations continue;

5. Taxing all costs in this action, including, but not limited to, attorney, expert witness and consultant fees, against Respondent; and

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

ANSWER:

Respondent denies that Complainant is entitled to any relief as sought in Count VII. Answering further, the requests are legal issues that do not require any answer.

COUNT VIII
FAILURE TO SUBMIT TRUE AND ACCURATE COMPLIANCE CERTIFICATIONS
FOR 2010 AND 2011

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

ANSWER:

1-11. Respondent adopts its answers to Paragraphs 1 through 11 of Count III as its answers to paragraphs 1 through 11 of this Count VIII.

12. Condition 9.8 of Respondent's CAAPP Permit provides, in relevant part:

Pursuant to Section 39.5(7)(p)(v) of the Act, the Permittee shall submit annual compliance certifications. The compliance certification shall be submitted no later than May 1 or more frequently as specified in the applicable requirements or by permit condition.

ANSWER:

Respondent admits the allegations of Paragraph 12 of Count VII accurately quotes the selected section of the CAAPP Permit and avers that the CAAPP Permit speaks for itself.

13. During the May 2012 Inspection the Illinois EPA's inspector determined that Respondent had not submitted true and accurate compliance certifications for the 2010 and 2011 calendar years, in that Respondent's compliance certifications for these years failed to note that Respondent failed to conduct the required Method 22 observations at the Facility on October 23, 2010 and February 4, 2011. Respondent did not report these deviations to Illinois EPA until March 28, 2012.

ANSWER:

Respondent admits that it disclosed to the Illinois EPA the findings from an internal audit

it conducted that it could not find records of Method 22 observations conducted on October 23, 2010 and February 4, 2011 but that it believed the observations were in fact made in a deviation report submitted on March 28, 2012. Respondent further admits that it did not include this in previously submitted compliance certificates nor did it submit amended certificates as set forth in the response to the Violation Notice A-2012-00057 dated October 15, 2012 where in Respondent stated that it was not aware that the Illinois EPA required submission of amended compliance certificates and would so submit if that was required. Answering further Respondent was not provided any response to its October 15, 2012 letter regarding the requirement to file amended annual compliance certificates. Respondent further states that it has submitted amended compliance certificates for 2010 and 2011 dated June 11, 2015. Respondent denies the remaining allegations of Paragraph 13 of Count VII.

14. By failing to submit its compliance certifications for the 2010 and 2011 calendar years, Respondent violated Condition 9.8 of its CAAPP Permit, thereby also violating Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2012).

ANSWER:

Respondent answers that Paragraph 14 contains legal conclusions that do not require an answer.

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

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Section 39.5(6)(a) of the Act, 415 ILCS

5/39.5(6)(a) (2012), and Section 9.8 of its CAAPP Permit;

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

4. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2012), impose a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of the Act and pertinent regulations, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day during which such violations continue

5. Taxing all costs in this action, including, but not limited to, attorney, expert witness and consultant fees, against Respondent; and

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

ANSWER:

Respondent denies that Complainant is entitled to any relief as sought in Count VIII.

AFFIRMATIVE DEFENSES

1. Complainant has failed to allege facts to show the cited violations and therefore is not entitled to the requested relief as set forth in the Counts of the Third Amended Complaint.

2. Complainant failed to include the cited attachments to the Third Amended Complaint.

3. Respondent reserve the right to amend this Answer and to add additional Affirmative Defense as it may become aware of during preparation for hearing and discovery.

WHEREFORE, Respondent respectfully requests that the Board dismiss the Complainant's Third Amended Complaint and grant Respondent such other relief as the Board determines is appropriate.

Respectfully submitted,
CII CARBON, L.L.C.

BY: 

Dated: June 12, 2015

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