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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

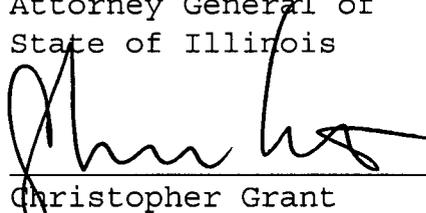
PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
) PCB No. 00-211
)
 v.) (Enforcement-Air)
)
)
 TOYAL AMERICA, Inc. formerly)
 known as ALCAN-TOYAL AMERICA, INC.,)
 a foreign corporation,)
)
 Respondent.)

NOTICE OF ELECTRONIC FILING

PLEASE TAKE NOTICE that on the 15th day of October, 2008, the Complainant filed its Request to Admit Facts to Respondent Toyal America, Inc., a true and correct copy of which is attached and herewith served upon you.

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

By:



Christopher Grant
Assistant Attorney General
69 W. Washington Street, #1800
Chicago Illinois, 60602
(312)814-5388
Attorney No. 99000

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
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Complainant,)	
)	PCB No. 00-211
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TOYAL AMERICA, Inc. formerly)	
known as ALCAN-TOYAL AMERICA, INC.,)	
a foreign corporation,)	
)	
Respondent.)	

**COMPLAINANT'S REQUEST TO ADMIT
FACTS TO RESPONDENT TOYAL AMERICA, INC.**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, *by* LISA MADIGAN, Attorney General of the State of Illinois, pursuant to Illinois Supreme Court Rule 216 and 35 Ill. Adm. Code 101.618(d), hereby serves the following Request to Admit Facts upon Respondent, TOYAL AMERICA, INC., to be answered in writing, under oath, within twenty-eight (28) days of service. For all requested admissions which Respondent denies or which Respondent can neither admit nor deny, pursuant to Supreme Court Rule 216(c) Respondent is required to provide Complainant with a sworn statement denying specifically the matters of which admission is requested, or setting forth in detail the reasons why Respondent cannot truthfully admit or deny those matters. If written objections to a part of the request are made, the remainder of the request shall be answered within the period designated. If good faith requires that Toyal deny only a part, or requires qualification, of a matter of which an admission is

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required, Toyal shall specify so much of it as is true and deny only the remainder. As required by 35 Ill. Adm. Code 101.618(c), Complainant advises Respondent as follows:

“ failure to respond to the following requests to admit within 28 days may have severe consequences. Failure to respond to the following requests will result in all the facts requested being deemed admitted as true for this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding or an attorney”.

DEFINITIONS

1. “Toyal” shall mean Respondent Toyal America, Inc., f/k/a Alcan-Toyal, and shall refer to and include any of Toyal’s employees, agents, representatives, successors or assigns, or any other person acting or believed by Toyal to have acted on their behalf.

2. “Illinois EPA” and/or “IEPA” means the Illinois Environmental Protection Agency.

3. “Act” means the Illinois Environmental Protection Act, 415 ILCS 5/1 *et seq.*

4. “VOM” means volatile organic material, as defined and used in the Complaint and applicable Pollution Control Board regulations.

5. When used in relation to a date, “on or about” means within a reasonable time of the date noted in the Request to Admit.

6. All terms not specifically defined herein shall have their logical ordinary meaning, unless such terms are defined in the Illinois Environmental Protection Act or the regulations promulgated thereunder, in which case the appropriate or regulatory definitions shall. On September 18, 2008, Respondent was provided with copies of documents, including correspondence between Respondent and Illinois EPA, permit applications submitted by Respondent to Illinois EPA, and other documents contained in Illinois EPA files and produced by counsel for Respondent in response to Complainant’s discovery requests. Most of the

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information contained in the following Request to Admit Facts is derived from these documents, and other records in the possession and control of Respondent.

REQUEST TO ADMIT FACTS

Fact No. 1

Toyal America, Inc. (hereinafter "Toyal") is a Delaware corporation, duly authorized to transact business in the State of Illinois.

Response:

Fact No. 2

Toyal is a wholly owned subsidiary of Nippon Light Metals, Ltd. a Japanese corporation, which also does business as Nippon Light Metals Group or NLM Group.

Response:

Fact No. 3

Nippon Light Metals Group consists of 115 subsidiaries and 51 affiliates.

Response:

Fact No. 4

Nippon Light Metals Ltd. reported 2007 sales of \$5,236,408,000.00

Response:

Fact No. 5

Toyal owns and operates an aluminum processing facility located at 17401 South Broadway, Lockport, Will County, Illinois.

Response:

Fact No. 6

On or about February 6, 1992, Illinois EPA requested information from Toyal regarding maximum theoretical VOM emissions to determine compliance with 35 Ill. Adm. Code 218.985(a) and Subpart TT.

Response:

Fact No. 7

On or about May 29, 1992, Toyal reported to Illinois EPA that their maximum theoretical VOM emissions were 82 tons per year.

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Response:

Fact No. 8

On or about May 29, 1992, in the report referenced in Request to Admit Fact No. 7, Toyal advised Illinois EPA that, due to process limitations, they considered the practical maximum VOM emissions to be 41.5 tons per year.

Response:

Fact No. 9

On or about May 29, 1992, Toyal reported to Illinois EPA that their actual VOM emissions to the air were 28.07 tons in 1990 and 33.61 tons in 1991.

Response:

Fact No. 10

Using the definition of "maximum theoretical emissions" contained in 35 Ill. Adm. Code 211.3960, from at least March 15, 1995 through at least April 30, 2003, Toyal's maximum theoretical emissions of volatile organic material exceeded 100 tons per year.

Response:

Fact No. 11

Using the definition of "potential to emit" contained in 35 Ill. Adm. Code 211.4970, from at least March 15, 2005 through at least April 30, 2003, Toyal's emission sources had the potential to emit in excess of 25 tons per year of volatile organic material.

Response:

Fact No. 12

On or about February 27, 1995, Illinois EPA sent a Request for Additional Information to Toyal in response to Toyal's permit application, number 90040002. The Request for Additional Information advised Toyal that on March 15, 1995, the applicable emission level for Part 218, Subpart TT and Subpart QQ would apply to its facility.

Response:

Fact No. 13

Toyal was subject to the control requirements of 35 Ill. Adm. Code 218.986(a), subpart TT, as of March 15, 1995.

Response:

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Fact No. 14

Toyal submitted its application for a Clean Air Act Permit Program ("CAAPP") permit on or about March 5, 1996.

Response:

Fact No. 15

Toyal's CAAPP Permit application advised Illinois EPA that Toyal was subject to but not in compliance with 35 Ill. Adm. Code 218.986(a).

Response:

Fact No. 16

In its CAAPP Permit application, Toyal stated that total VOM emissions exceeded 25 tons per year and that it was not in compliance with 35 Ill. Adm. Code 218.986(a).

Response:

Fact No. 17

In its CAAPP Permit application, Toyal advised Illinois EPA that control equipment would be installed in the future.

Response:

Fact No. 18

In its CAAPP Permit application, Toyal advised Illinois EPA that it would apply for a construction permit for control equipment to meet the 81% control requirements of 218.986(a) by February 1998, and demonstrate compliance by November 1998.

Response:

Fact No. 19

In its CAAPP Permit application, Toyal reported VOM emissions of 80.6411 Tons per year for purpose of CAAPP Permit Fee determination.

Response:

Fact No. 20

Toyal sought internal company approval for a project to investigate emission control technology to come into compliance with VOM limits on or about February 25, 1997

Response:

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Fact No. 21

On or about March 13, 1998, Toyal requested that Illinois EPA extend its deadline for submission of its construction permit application until May 31, 1998. In its request for extension, Toyal stated that it would be in complete compliance by February 1999, and would demonstrate compliance through stack testing and mass balance estimates.

Response:

Fact No. 22

On or about June 2, 1998, Illinois EPA received Toyal's construction permit application for VOM control equipment.

Response:

Fact No. 23

In its application, Toyal advised Illinois EPA that it would be installing a Regenerative Catalytic Oxidizer (hereinafter "RCO), and that it would demonstrate compliance by stack test in November, 1998.

Response:

Fact No. 24

In its application for the permit referenced in Request to Admit Fact No. 23, Toyal advised Illinois EPA that it had not yet chosen an RCO supplier.

Response:

Fact No. 25

On or about December 30, 1998, Toyal wrote Illinois EPA advising that it had cancelled the stack test scheduled for December 29, 1988, a typographical error which was intended to be December 29, 1998. Toyal requested an extension until February 29 1998, a typographical error which was intended to be February 29, 1999.

Response:

Fact No. 26

On February 19, 2002, Toyal wrote Illinois EPA requesting an extension of the date of demonstrating compliance with VOM capture and control efficiency to below 25 tons VOM per year until November 29, 2002.

Response:

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Fact No. 27

On or about February 26, 2002, Toyal wrote Illinois EPA and advised that it had not completed emissions control engineering necessary to make the necessary modifications to convert the existing RCO to an RTO.

Response:

Fact No. 28

On or about August 19, 2002, Toyal wrote Illinois EPA requesting an additional extension of the date for demonstrating compliance with VOM capture and control efficiency.

Response:

Fact No. 29

Toyal reported 1999 VOM emissions to Illinois EPA to be 36.1 tons.

Response:

Fact No. 30

Toyal reported 2000 VOM emissions to Illinois EPA to be 47.4 tons.

Response:

Fact No. 31

On or about April 18, 2001, Toyal submitted a construction permit application to Illinois EPA.

Response:

Fact No. 32

Toyal's April 18, 2001 construction permit application sought a permit for conversion of the existing RCO to a regenerative thermal oxidizer (hereinafter "RTO") as a VOM control device.

Response:

Fact No. 33

In its April 18, 2001 application, Toyal advised Illinois EPA that it would test the RTO to demonstrate compliance in May, 2002.

Response:

Fact No. 34

In its April 18, 2001 application, Toyal advised Illinois EPA that its A-Unit Process consisted of 13 emission sources.

Response:

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Fact No. 35

In its April 18, 2001 application, Toyal advised Illinois EPA that its A-Unit process was subject to the 81% VOM control requirements of 35 Ill. Adm. Code 218.986(a), and was not in compliance with applicable regulations.

Response:

Fact No. 36

In its April 18, 2001 application, Toyal advised Illinois EPA that A-Unit emissions would be controlled by the RTO and that compliance would be demonstrated by stack testing.

Response:

Fact No. 37

In its April 18, 2001 application, Toyal advised Illinois EPA that its B-Unit Process consisted of 18 emission sources.

Response:

Fact No. 38

In its April 18, 2001 application, Toyal advised Illinois EPA that its B-Unit process was subject to the 81% VOM control requirements of 35 Ill. Adm. Code 218.986(a), and was not in compliance with applicable regulations.

Response:

Fact No.39

In its April 18, 2001 application, Toyal advised Illinois EPA that B-Unit VOM emissions would be controlled by the RTO and that compliance would be demonstrated by stack testing.

Response:

Fact No. 40

In its April 18, 2001 application, Toyal advised Illinois EPA that its C-Unit Process consisted of 18 emission sources.

Response:

Fact No.41

In its April 18, 2001 application, Toyal advised Illinois EPA that its C-Unit Process was subject to the 81% VOM control requirements of 35 Ill. Adm. Code 218.986(a), and was not in compliance with applicable regulations.

Response:

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Fact No. 42

In its April 18, 2001 application, Toyal advised Illinois EPA that C-Unit VOM emissions would be controlled by the RTO and that compliance would be demonstrated by stack testing.

Response:

Fact No.4 3

In its April 18, 2001 application, Toyal advised Illinois EPA its D-Unit Process consisted of 18 emission sources.

Response:

Fact No.44

In its April 18, 2001 application, Toyal advised Illinois EPA that its D-Unit process was subject to the 81% VOM control requirements of 35 Ill. Adm. Code 218.986(a), and was not in compliance with applicable regulations.

Response:

Fact No. 45

In its April 18, 2001 application, Toyal advised Illinois EPA that D-Unit VOM emissions would be controlled by the RTO and that compliance would be demonstrated by stack testing.

Response:

Fact No. 46

In its April 18, 2001 application, Toyal advised Illinois EPA that its Aluminum Flake Process Unit consisted of 3 emission units.

Response:

Fact No. 47

In its April 18, 2001 application, Toyal advised Illinois EPA that its Aluminum Flake Process Unit process was subject to the 81% VOM control requirements of 35 Ill. Adm. Code 218.986(a), and was not in compliance with applicable regulations.

Response:

Fact No.48

In its April 18, 2001 application, Toyal advised Illinois EPA that Aluminum Flake Process emissions would be controlled by the RTO and that compliance would be demonstrated by stack testing.

Response:

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Fact No. 49

In its April 18, 2001 application, Toyal advised Illinois EPA that its FX Flake Process Unit consisted of 9 emission sources.

Response:

Fact No. 50

In its April 18, 2001 application, Toyal advised Illinois EPA that its FX Flake Process was subject to the 81% VOM control requirements of 35 Ill. Adm. Code 218.986(a), but was not in compliance with applicable regulations. Toyal further advised that FX Flake Process VOM emissions would be controlled by the RTO and that compliance would be demonstrated by stack testing.

Response:

Fact No. 51

In its April 18, 2001 application, Toyal advised Illinois EPA that its Sigma Mixer Process Unit consisted of 4 emission sources.

Response:

Fact No. 52

In its April 18, 2001 application, Toyal advised Illinois EPA that its Sigma Mixer Process was subject to the 81% VOM control requirements of 35 Ill. Adm. Code 218.986(a), but was not in compliance with applicable regulations.

Response:

Fact No. 53

In its April 18, 2001 application, Toyal advised Illinois EPA that Sigma Mixer Process VOM emissions would be controlled by the RTO and that compliance would be demonstrated by stack testing.

Response:

Fact No. 54

Toyal did not convert the RCO to an RTO at any time after submitting the April 19, 2001 Permit Application.

Response:

Fact No.55

On or about November 1, 2002, Toyal reported to Illinois EPA that of 58 VOM emission sources at its facility, 26 had been connected to a control device, 19 had not yet been connected to control, and 13 were exempt from the control requirement.

Response:

Fact No. 56

Following submission of its April 18, 2001 permit application for the RTO, Toyal began a project to hook all regulated emission sources to the RCO.

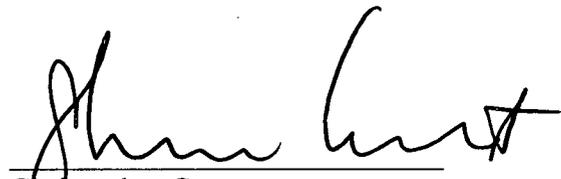
Response:

Fact No.57

Toyal first demonstrated compliance with the control requirements of 35 Ill. Adm. Code 218.986(a) on April 30, 2003.

Response:

RESPECTFULLY SUBMITTED:

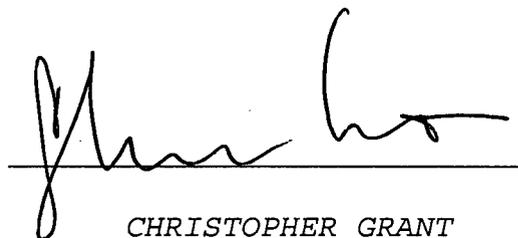


Christopher Grant,
Assistant Attorney General
Environmental Bureau
69 W. Washington Street, #1800
Chicago, Illinois 60602
(312) 814-5388
Dated: October 15, 2008

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CERTIFICATE OF SERVICE

I, CHRISTOPHER GRANT, an attorney, do certify that I caused to be served this 15th day of October, 2008, the foregoing Request to Admit Facts to Respondent Toyal America, Inc. upon the person listed below by placing same in an envelope bearing sufficient postage with the United States Postal Service located at 100 W. Randolph, Chicago, Illinois.



CHRISTOPHER GRANT

Mr. Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
100 W. Randolph
Chicago, Illinois 60601 (By Hand Delivery)

Mr. Roy M. Harsch
Drinker Biddle Gardner Carton LLP
191 N. Wacker Drive, Suite 3700
Chicago, Illinois 60606-1698 (By Certified Mail)