

Count IV: Failure to submit National Emission Standards for Hazardous Air Pollutants (NESHAP) notifications in violation of 40 C.F.R. §§ 63.2860(a) and (d) and 63.2861(a) and Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2018).

Count V: Failure to keep records in violation of 40 C.F.R. §§ 60.49b(g)(2) - (10), 63.2862(d)(1) and (2); and Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2018).

Count VI: Violating Clean Air Act Permit Program (CAAPP) recordkeeping conditions in violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Conditions 5.2.6, 5.6.3(a), 5.7.1, 7.1.9(a) and (d), 7.2.9(a), 7.3.9(a)(ii)(B) and (D), 7.3.10(a), 7.4.8(a), 7.4.9(b), and (iv)(A) and (B), 7.4.9(d)(i) and (iii)(C) - (J), 7.5.9(a) and (b), and 7.6.9(a) and (c) of revised CAAPP Permit 98070042.

Count VII: Emitting in excess of CAAPP Permit fee limits in violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 5.5.1 of revised CAAPP Permit 98070042.

Count VIII: Violating construction permit requirements in violation of Section 9(b) of the Act, 415 ILCS 5/9(b) (2018), and Conditions 1.6(b), 2.1.8(d)(iv) and 2.2.4(a)(vi) of Construction Permit 06050042.

Count IX: Exceeding nitrogen oxides (NO_x) emission limits in violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Conditions 7.4.6(a) and 7.4.10 of the CAAPP Permit.

Count X: Failure to timely submit complete and accurate monitoring reports in violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 8.6.1 of the CAAPP Permit.

Count XI: Failure to obtain a construction permit in violation of Section 9(b) of the Act, 415 ILCS 5/9(b) (2018), and 35 Ill. Adm. Code 201.142.

Count XII: Failure to maintain a boiler in violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 9.2.2 of the CAAPP Permit.

Count XIII: Operating a boiler during a period of breakdown in excess of permit limits in violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 9.2.3 of the CAAPP Permit.

Count XIV: Failure to operate and maintain a boiler in a manner consistent with good air pollution control practice in violation of 40 C.F.R. § 60.11(d), Sections 9.1(d) and 39.5(6)(a) of the Act, 415 ILCS 5/9.1(d), 39.5(6)(a) (2018), and Conditions 7.4.5(c) and 7.4.5(d)(i) of the CAAPP Permit

Count XV: Failure to timely submit complete and accurate deviation reports in violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 5.7.1 of the CAAPP Permit.

Count XVI: Failure to timely provide complete and accurate notifications in violation of 40 C.F.R. §§ 60.665(a), 60.7(a)(1); Sections 9(b), 9.1(d), and 39.5(6)(a) of the Act, 415 ILCS 5/9.1(d) (2018); Conditions 2.1.2(a)(ii) and 2.1.9(a) of Construction Permit 06050042; and Condition 5.2.5(a) of the CAAPP Permit.

Count XVII: Failure to timely submit complete and accurate semi-annual reports in violation of 40 C.F.R. § 60.665(l); Sections 9(b), 9.1(d) and 39.5(6)(a) of the Act, 415 ILCS 5/9(b), 9.1(d), 39.5(6)(a) (2018); Conditions 2.1.2(a)(ii) and 2.1.9(a) of Construction Permit 06050042; and Condition 5.2.5(a) of the CAAPP Permit.

Count XVIII: Failure to timely provide complete and accurate notifications in violation of 40 C.F.R. §§ 60.7(a)(1) and 60.705(a); Sections 9(b), 9.1(d) and 39.5(6)(a) of the Act, 415 ILCS 5/9(b), 9.1(d), 39.5(6)(a) (2018); Condition 2.1.9(a) of Construction Permit 06050042; and Condition 5.2.5(a) of the CAAPP Permit.

Count XIX: Failure to timely submit complete and accurate Semi-Annual Reports in violation of 40 C.F.R. § 60.705(l); Sections 9(b), 9.1(d), and 39.5(6)(a) of the Act, 415 ILCS 5/9(b), 9.1(d), 39.5(6)(a) (2018); Condition 2.1.9(a) of Construction Permit 06050042; and Condition 5.2.5(a) of the CAAPP Permit.

Count XX: Failure to submit complete and accurate compliance certifications in violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 9.8(a) of the CAAPP Permit.

Count XXI: Failure to timely perform initial tune-up of a boiler in violation of 40 C.F.R. § 63.7510(e); Sections 9.1(d) and 39.5(6)(a) of the Act, 415 ILCS 5/9.1(d), 39.5(6)(a) (2018); and Condition 5.2.5(a) of the CAAPP Permit.

Count XXII: Failure to timely submit a complete and accurate notification of compliance status in violation of 40 C.F.R. § 63.4(a); Section 9.1(d) and 39.5(6)(a) of the Act, 415 ILCS 5/9.1(d), 39.5(6)(a) (2018); and Condition 5.2.5(a) of the CAAPP Permit.

Count XXIII: Failure to submit a complete and accurate notification of compliance status in violation of 40 C.F.R. §§ 63.4(a), 63.9(h)(2)(i)(A), (C), and (G); Sections 9.1(d)(1) and 39.5(6)(a) of the Act, 415 ILCS 5/9.1(d)(1), 39.5(6)(a) (2018); and Condition 5.2.5(a) of the CAAPP Permit.

Count XXIV: Failure to properly measure and record scrubbant flow rate and pressure drop in violation of Section 9(b) of the Act, 415 ILCS 5/9(b) (2018), Conditions 1.5, 1.6(b), and 2.1.7 of Construction Permit 06050042.

Count XXV: Failure to timely submit complete and accurate semi-annual emissions reports in violation of 40 C.F.R. §§ 63.10(d), 63.1039(b)(1) and 63.2520(e)(9); Sections 9(b), 9.1(d) and 39.5(6)(a) of the Act, 415 ILCS 5/9(b), 9.1(d), 39.5(6)(a) (2018); Conditions 2.1.2(a)(ii) and 2.1.9(a) of Construction Permit 06050042; and Condition 5.2.5(a) of the CAAPP Permit.

Count XXVI: Failure to timely submit complete and accurate initial notification in violation of 40 C.F.R. §§ 63.4(a)(2), 63.5(d)(1)(ii)(D), (E), and (F); 63.9(b)(1)(iii) and (2)(iii), (iv), and (v), and § 63.2515(a); Sections 9(b), 9.1(d), and 39.5(6)(a) of the Act, 415 ILCS 5/9(b), 9.1(d), 39.5(6)(a) (2018); Conditions 1.6(a) and 2.1.9(a) of Construction Permit 06050042; and Condition 5.2.5(a) of the CAAPP Permit.

Count XXVII: Failure to timely submit a notification of compliance status report in violation of 40 C.F.R. §§ 63.9(h)(2), 63.10(d), 63.2520(d), and 63.2535; Sections 9(b), 9.1(d), and 39.5(6)(a) of the Act, 415 ILCS 5/9(b), 9.1(d), 39.5(6)(a) (2018); Condition 2.1.9(a) of Construction Permit 06050042; and Condition 5.2.5(a) of the CAAPP Permit.

Count XXVIII: Failure to submit a timely compliance report in violation of 40 C.F.R. §§ 63.10(d)(1), 63.115(d)(2), 63.2455(b), 63.2515(c) and 63.2520(e)(10)(i); Sections 9(b), 9.1(d) and 39.5(6)(a) of the Act, 415 ILCS 5/9(b), 9.1(d) 39.5(6)(a) (2018); Condition 2.1.9(a) of Construction Permit 06050042; and Condition 5.2.5(a) of the CAAPP Permit.

Count XXIX: Failure to timely submit complete and accurate semi-annual reports in violation of 40 C.F.R. §§ 63.4(a)(2), 63.10(d), and 63.2520(e)(10); Sections 9(b), 9.1(d), and 39.5(6)(a) of the Act, 415 ILCS 5/9(b), 9.1(d), 39.5(6)(a) (2018); Conditions 1.6(a) and 2.1.9(a) of Construction Permit 06050042; and Condition 5.2.5(a) of the CAAPP Permit

On April 17, 2020, the People and Incobrasa filed a stipulation and proposed settlement, accompanied by a request for relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (2018)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2018)), which requires that the public have an opportunity to request a hearing whenever the State and a respondent propose settling an enforcement action without a public hearing. *See* 35 Ill. Adm. Code 103.300(a). Under the proposed stipulation, Incobrasa does not affirmatively admit the violations alleged in the second amended complaint but agrees to pay a civil penalty of \$750,000.

Unless the Board determines that a hearing is needed, the Board must cause notice of the stipulation, proposed settlement, and request for relief from the hearing requirement. Any person

may file a written demand for hearing within 21 days after receiving the notice. If anyone timely files a written demand for hearing, the Board will deny the parties' request for relief and hold a hearing. *See* 415 ILCS 5/31(c)(2) (2018); 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk to provide the required notice.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on May 21, 2020, by a vote of 4-0.

A handwritten signature in cursive script that reads "Don A. Brown". The signature is written in black ink and is positioned above a horizontal line.

Don A. Brown, Clerk
Illinois Pollution Control Board