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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD MAR 10 2004

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF)
ILLINOIS)
)
Complainant,)
)
v.)
)
CII CARBON LLC,)
)
Respondent.)

PCB 04-137
(Enforcement)

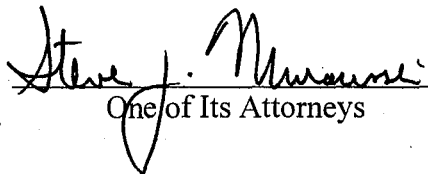
NOTICE OF FILING

Mr. Delbert D. Haschemeyer
Assistant Attorney General
Environmental Bureau
500 South Second Street
Springfield, IL 62706

Ms. Dorothy Gunn, Clerk
Illinois Pollution Control Board
James R. Thomspson Center
100 W. Randolph - Suite 11-500
Chicago, IL 60601

Ms. Carol Sudman, Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, IL 62794-9274

PLEASE TAKE NOTICE that on Wednesday, March 10, 2004 I have filed with the Office of the Clerk of the Pollution Control Board a **MOTION TO CORRECT NAME OF RESPONDENT and STAY FILING OF AN ANSWER**, copies of which are attached hereto and herewith served upon you.

By: 
One of Its Attorneys

Roy M. Harsch, Esq.
Steven J. Murawski, Esq.
GARDNER CARTON & DOUGLAS LLP
191 N. Wacker Drive, Suite 3700
Chicago, IL 60606
(312) 569-1000

THIS FILING IS SUBMITTED ON RECYCLED PAPER

CERTIFICATE OF SERVICE

The undersigned states that he caused a copy of the **MOTION TO CORRECT NAME OF RESPONDENT and STAY FILING OF AN ANSWER** to be delivered via messenger delivery this 10th day of March, 2004 to the following:

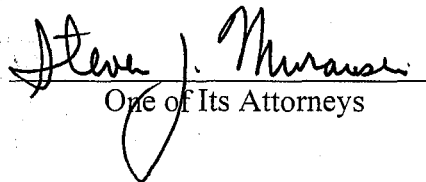
Ms. Dorothy Gunn
Clerk - Illinois Pollution Control Board
100 W. Randolph Street, Rm 11-100
Chicago, IL 60601

and delivered via United States Mail, postage prepaid, on this 10th day of March, 2004 to the following:

Mr. Delbert D. Haschemeyer
Assistant Attorney General
Environmental Bureau
500 South Second Street
Springfield, IL 62706

Ms. Carol Sudman, Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
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By:


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MOTION TO CORRECT NAME OF RESPONDENT
and
STAY FILING OF AN ANSWER

On behalf of Respondent, CII CARBON LLC (CII), Gardner Carton & Douglas hereby files this **MOTION TO CORRECT NAME OF RESPONDENT and STAY FILING OF AN ANSWER**. In support of this Motion, Respondent states as follows:

I. CORRECT NAME OF RESPONDENT

1. The Complainant filed a Complaint and Entry of Appearance with the Illinois Pollution Control Board (Board) on February 2, 2004.
2. The Complaint was filed against "Robinson Carbon, Inc.," the alleged operator of a facility located at R.R. 3, P.O. Box 719, Robinson, Crawford County, Illinois (Facility).
3. "Robinson Carbon, Inc." is not the operator of the Facility; CII is the operator of the Facility.

4. Despite the Complainant's service of the Complaint on the incorrect party, CII accepts service of the Complaint and does not contest the Board's jurisdiction over this matter or over CII.

5. Due to CII's willingness to accept jurisdiction and CII's admission that it is the operator of the Facility, CII requests that the Board replace the name "Robinson Carbon, Inc." with CII's name in the case caption and all correspondence, documents and motions related to this matter.

II. STAY FILING OF AN ANSWER

6. Paragraph 1 above is incorporated by reference.

7. CII did not receive the Complaint until February 9, 2004 due, in part, to the circumstances described in Paragraphs 1-6 above.

8. According to *35 IAC 103.204(d)*, a respondent may file an answer within sixty (60) days after receipt of the complaint if the respondent wants to deny any allegations in the complaint. All material allegations of the complaint will be taken as admitted if no answer is filed or if not specifically denied by the answer, unless respondent asserts a lack of knowledge sufficient to form a belief.

9. CII has the right to file an answer in accordance with *35 IAC 103.204(d)* until April 9, 2004.

10. CII and the Illinois Attorney General (Parties) have already entered into substantive settlement discussions that may result in the resolution of some or all of the alleged violations. The Parties believe that these discussions continue to be productive and settlement may be reached in the near future pending the Parties' review of emission tests to be conducted at the Facility in the next 60 days. Consequently, the filing of an answer may be unnecessary.

11. To avoid the unnecessary cost and expense of filing an answer at this time, CII requests that the Board stay the sixty (60) day deadline for filing an answer imposed by *35 IAC 103.204(d)*. In its place, CII requests that the Board extend the deadline for filing an answer for an additional 120 days following this Motion (i.e. by July 8, 2004) or until such time as either party requests an earlier submission of an answer. If either Party requests an answer to be filed prior to the 120-day extension, that request should be in writing and served upon all of the Parties. CII should be granted at least thirty (30) days to prepare and file an answer; the thirty (30) day period shall begin on the date that CII serves a written request on the all of the Parties or CII receives a written request by the Complainant, whichever is sooner.

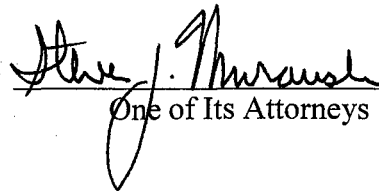
12. On March 9, 2004, Counsel for CII discussed this Motion with Mr. Delbert Haschemeyer, Counsel for the State of Illinois, and Mr. Haschemeyer stated that the Complainant does not oppose this Motion.

WHEREFORE, CII requests the Board (1) correct its name in the case caption and all correspondence, documents and motions related to this matter and (2) stay the filing of an answer for one hundred twenty (120) days or until such earlier time as requested by one of the Parties.

Respectfully submitted,

CII CARBON LLC

By:


One of Its Attorneys

Roy M. Harsch, Esq.
Steven J. Murawski, Esq.
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