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DEC 05 2005

STATE OF ILLINOIS
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

November 30, 2005

The Honorable Dorothy Gunn
Illinois Pollution Control Board
James R. Thompson Center, Ste. 11-500
100 West Randolph
Chicago, Illinois 60601

Re: ***People v. Midwest Grain Products of Illinois, Inc.***
PCB No. 97-179

Dear Clerk Gunn:

Enclosed for filing please find the original and five copies of a NOTICE OF FILING and COMPLAINANT'S MOTION FOR A ONE-DAY EXTENSION OF THE DEADLINE FOR ITS RESPONSE TO DEFENDANT'S MOTION TO STRIKE INTERROGATORIES AND FOR LEAVE TO FILE RESPONSE INSTANTER in regard to the above-captioned matter. Please file the original and return a file-stamped copy to me in the enclosed, self-addressed envelope.

Thank you for your cooperation and consideration.

Very truly yours,

Jane E. McBride
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706
(217) 782-9031

JEM:lh
Enclosures

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

DEC 05 2005

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF)
ILLINOIS,)
)
Complainant,)
)
v.)
)
MIDWEST GRAIN PRODUCTS OF)
ILLINOIS, INC., an Illinois corporation,)
)
Respondent.)

PCB NO. 97-179
(Enforcement)

NOTICE OF FILING

To: Patrick M. Flachs
John Collins
Husch & Eppenberger LLC
190 Carondelet Plaza, Ste. 600
St. Louis, MO 63105

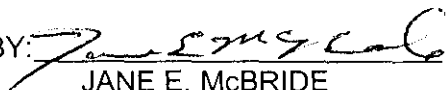
PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois COMPLAINANT'S MOTION FOR A ONE-DAY EXTENSION OF THE DEADLINE FOR ITS RESPONSE TO DEFENDANT'S MOTION TO STRIKE INTERROGATORIES AND FOR LEAVE TO FILE RESPONSE INSTANTER, copies of which are attached hereto and herewith served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN,
Attorney General of the
State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

BY: 

JANE E. McBRIDE
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: November 30, 2005

CERTIFICATE OF SERVICE

I hereby certify that I did on November 30, 2005, send by First Class Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instruments entitled NOTICE OF FILING and COMPLAINANT'S MOTION FOR A ONE-DAY EXTENSION OF THE DEADLINE FOR ITS RESPONSE TO DEFENDANT'S MOTION TO STRIKE INTERROGATORIES AND FOR LEAVE TO FILE RESPONSE INSTANTER


To: Patrick M. Flachs
John Collins
Husch & Eppenger LLC
190 Carondelet Plaza, Ste. 600
St. Louis, MO 63105
Fax (314) 480-1505

and the original and five copies by facsimile and also by First Class Mail with postage thereon fully prepaid of the same foregoing instrument(s):

To: Dorothy Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
Suite 11-500
100 West Randolph
Chicago, Illinois 60601
Fax (312) 814-3669

A copy was also sent by First Class Mail with postage thereon fully prepaid to:

Carol Webb
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
Springfield, IL 62794
Fax (217) 524-8508


JANE E. McBRIDE
Assistant Attorney General

This filing is submitted on recycled paper.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

TAZEWELL COUNTY, ILLINOIS

RECEIVED
CLERK'S OFFICE

DEC 05 2005

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS)	
)	
Complainant)	
)	PCB No. 97-179
v.)	
)	
MIDWEST GRAIN PRODUCTS OF)	
ILLINOIS, INC., an Illinois corporation)	
)	
Respondent)	

**COMPLAINANT'S MOTION FOR A ONE-DAY EXTENSION OF THE DEADLINE FOR ITS
RESPONSE TO DEFENDANT'S MOTION TO STRIKE INTERROGATORIES
AND FOR LEAVE TO FILE RESPONSE INSTANTER**

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, and hereby moves for a one-day extension of the deadline for filing Complainant's response to Defendant's motion to strike interrogatories and requests leave to file Complainant's response instanter. In support of its motion, Complainant states as follows:

1. In its November 15, 2005 Order, the Hearing Officer set a filing deadline of November 29, 2005 for Complainant's response to Respondent's motion to strike Complainant's interrogatories.
2. Complainant prepared a response for filing on November 29, 2005, but there was a one day delay in obtaining appropriate client agency review of the filing due to agency counsel's work travel schedule. Complainant was unexpectedly unable to file the response by or before the deadline date, which has resulted in a one-day delay.
3. The inadvertent delay in the filing of Complainant's response will not cause any delay in the dates agreed to by the parties for discovery activities. No stay in the discovery schedule has been ordered, nor is there any additional request for a change in the discovery schedule previously established by the November 15, 2005 Hearing Officer Order.

WHEREFORE, for the foregoing reasons, Complainant respectfully requests that the

Hearing Officer enter an order granting Complainant a one-day extension of the filing deadline for its response, and grant Complainant leave to file its response.

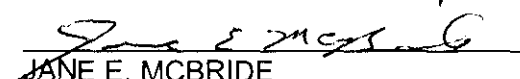
Respectfully Submitted,

PEOPLE OF THE STATE OF ILLINOIS,

ex rel LISA MADIGAN, Attorney General
of the State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

BY:


JANE E. MCBRIDE
Assistant Attorney General
Environmental Enforcement Bureau

500 South Second Street
Springfield, Illinois 62706
(217) 782-9031
Dated 11/30/05

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

TAZEWELL COUNTY, ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS)	
)	
Complainant)	
)	PCB No. 97-179
v.)	
)	
MIDWEST GRAIN PRODUCTS OF)	
ILLINOIS, INC., an Illinois corporation)	
)	
Respondent)	

**RESPONSE TO RESPONDENT'S
MOTION TO STRIKE COMPLAINANT'S INTERROGATORIES**

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, and responds to Respondent's Motion to Strike Complainant's Interrogatories as follows:

1. The basis for Respondent's motion to strike appears in paragraph 18 of its motion, wherein it states that Complainant's discovery requests are, in part, overly broad, duplicative and/or unclear, causing Respondent to bear an unnecessary burden and expense in attempting to reply to such requests. It also asserts as a basis Complainant's "refusal" to provide a substantive reply to Respondent's attempts to discuss discovery issues, and labels Complainant's alleged refusal as harassment.

2. In response to Respondent's claim that Complainant has refused to "provide a substantive reply", and with regard to events or dates leading up to Respondent's filing of its motion to strike, it is Complainant's belief, position and contention that a discovery stay was in place. Complainant fully believed and intended that a response to Respondent's September 20, 2005 letter was timely and appropriate within a matter of days of the October 25, 2005 status. Counsel for the Complainant stated at the time of the status a response to the September 20, 2005 would be forthcoming within a matter of days, not the day of the status itself. Since October 25, 2005, Complainant has formally requested an extension of time in

which to respond to the motion and has requested an extension of the discovery deadline. The basis of this request was set forth in Complainant's written motion, and Respondent indicated it had no objection. Complainant communicated its appreciation of Respondent's cooperation in this regard. Complainant has since responded to Respondent's September 20, 2005 letter, a copy of which is attached hereto as Exhibit A.

3. In response to the assertion that 5 of the 29 interrogatories propounded by Complainant are overly broad, duplicative and/or unclear, and thus a motion to strike is merited, Complainant states that such grounds are grounds for objection but not a motion to strike. As set forth below, Complainant has agreed to withdraw two of the five interrogatories Respondent finds objectionable. That leaves three interrogatories which Respondent finds overly broad, duplicative and/or unclear. Complainant responds below that should an answer or response to one interrogatory indeed be duplicative of a response to another interrogatory, Respondent can easily incorporate its response to the first interrogatory into the response to the second interrogatory by reference. Therefore, the objection that interrogatories are duplicative, but otherwise not objectionable, can be resolved by merely incorporating a prior answer by reference. That leaves "overly broad" and "unclear" as these two objections might be pertinent to Interrogatories 4, 9 and 11. It appears, based on Respondent's motion, that the primary objection to these three interrogatories is that all three ask for a lot of information, some of which is simply not available. And finally, Respondent is refusing to provide any information pertinent to something known as the "Swiss Combi systems." These last two issues, that of the amount of information that is responsive to each interrogatory, and the issue of the request for information regarding the Swiss-Combi systems, are addressed below.

4. As stated above, Complainant withdraws Complainant's Interrogatories 26 and 28.

5. In its communication pursuant to Supreme Court Rule 201 (k), and in its Motion to Strike, Respondent has communicated its refusal to provide any information regarding the Swiss Combi system it has installed to provide controls not at issue in this matter which is an identical system to the Swiss Combi it will be installing as the proposed compliance technology to resolve this enforcement matter.

6. In response to Respondent's refusal, Complainant has communicated to Respondent, and herein provides, the basics of the justification for Complainant's request for information regarding the Swiss Combi systems.

7. Significantly, by letter dated November 3, 2005, Respondent stated that "a first step toward compliance occurred in May 2002, with IEPA's permitting and MGP's installation of the Swiss-Combi dryer." The Swiss Combi system that has been installed at Midwest Grain is virtually the identical system proposed to be installed to resolve all compliance matters at issue in the instant action, is best available control technology ("BACT"), and has been determined as such by the Illinois EPA based on Respondent's BACT analysis submitted to the Illinois EPA as part of the PSD approval process to comply with PSD requirements that are the subject of this enforcement action. In that the Swiss Combi is BACT and is intended to return the facility to compliance, the information regarding the Swiss Combi is directly relevant to economic benefit derived by Respondent Midwest Grain as well as to any claim Respondent may assert relevant to the fact Respondent has proposed an acceptable compliance technology and has proceeded to permit that technology. There is currently a permit application in house at the Illinois EPA, submitted by Midwest Grain, for the Swiss Combi system that has been accepted as the technical compliance in this matter. Given the Illinois Environmental Protection Act, as amended, now requires the Illinois Pollution Control Board to establish economic benefit in the assessment of penalties, all factors pertinent to an economic benefit calculation are relevant to

the matters at issue in this enforcement action. Further, Respondent's third affirmative defense was not struck and thus remains at issue in this matter and Complainant expects Respondent to present evidence relevant to the third affirmative defense at hearing. Respondent's third affirmative defense is:

Pursuant to discussions with [the Agency], Midwest Grain has agreed to purchase and install additional emission control equipment, at substantial expense. Midwest Grain's commitment to [the Agency] to install new emission control equipment constitutes a Compliance Commitment Agreement. Midwest Grain is in compliance with the Compliance Commitment Agreement, therefore, these allegations should not have been brought.

In that the Swiss Combi is the technology that will be installed to meet compliance requirements, it is certainly relevant to this third affirmative defense. And further, as set forth in the Board's order regarding Respondent's affirmative defenses, the Board found that Respondent's second and fourth affirmative defenses, although not affirmative defenses, to be standard defenses and concern evidence that would be relevant to the assessment of penalty despite the fact they were not affirmative defenses relevant to liability for the violations alleged in the complaint. Complainant expects Respondent to present evidence pertinent to issues raised in Respondent's second and fourth defenses. The fourth defense is:

Midwest Grain filed an application for an operating permit on March 16, 1995. To date, [the Agency] has not acted upon the operating permit application, although Midwest Grain has extended the review period for the operating permit application three times (the last time for an indefinite period). Midwest Grain has also filed an application for a Clean Air Act Permit. Midwest Grain has been in frequent contact with [the Agency] and [the Agency] has not alleged that an operating permit is required at this time. At no time has Midwest Grain disregarded the provisions of the Board's air permit regulations and it has worked steadily with [the Agency] to remedy the difficulties it has had as a result of the unexpected difficult engineering for its emissions.

The last sentence of this defense is very telling. It addresses the "unexpected difficult engineering for its [Respondent's] emissions." There are many factors that have led to the

ultimate determination of the Swiss Combi as BACT in this matter. There have been a series of improvements, repairs, remakes, and different technologies proposed by Midwest Grain to address its emissions. Modeling and NAAQS compliance have been at issue in this matter. There have been numerous and a wide variety of issues raised in this enforcement matter. However, the bottom line is that the Swiss Combi was ultimately proposed by the Respondent as BACT, and the Swiss Combi has been accepted by the Illinois EPA as BACT. Thus, as the ultimate resolution for compliance technology issues in this matter, it is certainly relevant to the case and the resolution of all of the questions, issues, defenses brought forward in this matter and for which evidence is expected to be presented at hearing.

8. In its correspondence to Complainant, and in its Motion to Strike, Respondent states it cannot be "reasonably expected" to respond to Complainant's Interrogatory No. 9 because (1) it does not have dryer operation documentation prior to 1999, (2) MGP will be required to locate and review documents from three shifts daily for 11 years, potentially amounting to 12,000 discrete events, and (3) it refuses to provide any information regarding the Swiss Combi systems. Respondent objects to Complainant's Interrogatory No. 9 as overly broad and unduly burdensome.

9. Complainant's Interrogatory No. 9 consists of the following request.

Please provide all information known to the Respondent and/or in its possession and control regarding the date(s) of operation of the feed dryer systems 651 and 661 and the Swiss-Combi system already in operation at Midwest Grain, beginning 1994 through the present.

10. In its September 20, 2005 letter to Complainant, Respondent offered to provide hours of operation of dryers 651 and 661 on a yearly basis. Complainant has asked Respondent to produce this information as offered, and has indicated if the Complainant feels it requires additional information after reviewing the first production it will request that such additional information be provided consistent with the original request set forth in Interrogatory

No. 9. Complainant continues to object to Respondent's position relevant to production of information regarding the Swiss-Combi systems.

11. Respondent contends that Complainant's Interrogatory No. 4 is overly broad and unduly burdensome in time and scope. Complainant has responded that the information requested is necessary for a penalty calculation and points out that, in that economic benefit is now a required portion of any penalty assessed by the Pollution Control Board, and operation and maintenance is a factor in that calculation, the requested information is relevant. Further, Complainant contends that every aspect of the technologies installed and placed into operation at the facility will be relevant to the arguments presented at hearing in this matter, both with regard to allegations contained in the complaint and defenses asserted by Respondent. MGP has and continues to maintain that no economic benefit was derived resulting from its failure to comply with federal PSD and State permit requirements given costs incurred by the facility relative to the operation and maintenance of feed dryers 651 and 661. Accordingly, documents requested by the State are directly relevant to issues relative to economic benefit and the operation of each emissions source. Complainant expects that the Respondent will have operation and maintenance information compiled and available for its own purposes at hearing in this matter. The amount of money involved in the operation and maintenance of these dryers in addition to the Swiss-Combi system certainly is relevant to the amount of time and money spent making this failed technology operable for these many years it has been in place while the issue of appropriate BACT has been on the table, in addition to costs representative of the installation, operation, and maintenance of the Swiss-Combi system. Complainant has asked Respondent if it has operation and maintenance information available in any form upon which it intends to rely at hearing. Should information responsive to the State's discovery request exist, the information is relevant and should be made available, in a useful and usable form.

12. Respondent contends that Complainant's Interrogatory Number 11 "is virtually impossible for MGP to respond to", apparently due to the broad nature of the request.

13. Complainant's Interrogatory No. 11 consists of the following request:

Please provide all information known to the Respondent and/or in its possession and control regarding the construction and operation of feed dryer systems 651 and 661 and the Swiss-Combi systems, including emission testing of said equipment; the construction and operation of air pollution control equipment to control PM emissions generated during operation of feed dry systems 651 and 661; and modeling prescribed by federal PSD requirements.

14. Respondent contends Interrogatory No. 11 consists of four separate interrogatories. Complainant disputes such a characterization.

15. Respondent provides numbering to support its contention in an exhibit attached to its motion. It looks like the following:

(1) Please provide all information known to the Respondent and/or in its possession and control regarding the construction and operation of feed dryer systems 651 and 661 and the Swiss-Combi systems, (2) including emission testing of said equipment; (3) the construction and operation of air pollution control equipment to control PM emissions generated during operation of feed dry systems 651 and 661; (4) and modeling prescribed by federal PSD requirements.

16. Complainant contends that the interrogatory is drafted to set forth a general request, which includes a list of specific aspects of the request the Complainant is concerned with.

Please provide all information known to the Respondent and/or in its possession and control regarding the construction and operation of feed dryer systems 651 and 661 and the Swiss-Combi systems, ***including*** (1) emission testing of said equipment; (2) the construction and operation of air pollution control equipment to control PM emissions generated during operation of feed dry systems 651 and 661; (3) and modeling prescribed by federal PSD requirements.

The interrogatory generally asks for construction and operation information and is drafted consistent with applicable case law, which was so aptly reviewed by the Respondent itself in its

motion and in pleadings associated with Complainant's motion to strike Respondent's interrogatories. The second portion of the interrogatory fine tunes the request so as to identify specific information the Complainant is looking for within the general request, that being, and set off by the term "including" which is utilized to convey its common meaning, (1) emission testing of the feed dryer systems and the Swiss-Combi system (such information would be expected to be included in all data considered construction and operation information since emission testing is required in the construction process of such equipment and must be conducted to ensure that the equipment is operated in compliance with its permit requirements); (2) construction of air pollution control equipment for the dryers and Swiss-Combi systems specific to control of PM emissions (this information would also be expected to be part of any construction and operation data generated for the dryers and Swiss-Combi system, since it entails the construction and operation of a very pertinent and relevant portion of the equipment); and (3) modeling information pertinent to the dryers and Swiss-Combi system, as prescribed by federal PSD requirements (which Complainant knows Respondent has undertaken in anticipation of meeting BACT in the process of the BACT determination, as well as in anticipation of meeting specific PSD requirements necessary for the Swiss-Combi permit application, which is all part of the construction and operation of the dryers and Swiss-Combi systems in that the modeling had to be done to meet PSD requirements, and vice versa, appropriate construction and operation projections are absolutely paramount to accurate modeling). Respondent contends that the second portion of Interrogatory 11 does not elicit details that are common to the theme of the primary question. Complainant disputes this contention and, as set forth above, argues that the items requested are very much consistent with the general request for construction and operation information.

17. Respondent contends that information sought via Complainant's Interrogatory No

11 is duplicative of information sought in Interrogatories No. 8 and 9. As noted in correspondence to Respondent, Complainant would expect Respondent to provide responsive information to Interrogatories 8 and 9, and if said information is also responsive to Interrogatory No. 11, to simply reference its answers to Interrogatories 8 and 9 in its response to Interrogatory 11.

18. Complainant's Interrogatory No. 11 does indeed ask for all information relevant to the construction and operation of feed dryers 651 and 661 and the Swiss-Combi, and this information should specifically include all information relevant to emissions testing pertinent to the dryers, all information pertinent to the particulate matter pollution control equipment associated with the dryers, and all information regarding modeling conducted to meet the PSD requirements for the dryers and the Swiss-Combi system that is in place and the one proposed to replace the dryers. All such information is relevant to the installation, operation, repair, modification and reconstruction of both the two feed dryers, which is obviously relevant to Respondent's defenses in this case, and the request is also relevant to BACT for this case. In its response, Complainant has queried of the Respondent as to what form such information is generated, maintained and stored by Respondent, and what information responsive to this Interrogatory is readily available versus what is not readily available. Complainant has asked of Respondent whether it has conducted any summarization of the requested information itself for purposes of this enforcement matter, and whether Respondent might be willing to examine the possibility of stipulating to a given set of factual information pertinent to the relevant questions. Such is a common method of addressing a large volume of necessary information.

WHEREFORE, for the foregoing reasons and on the foregoing grounds, Complainant respectfully requests that Respondent's motion to strike Complainant's interrogatories be denied.

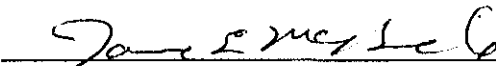
Respectfully Submitted,

PEOPLE OF THE STATE OF ILLINOIS,

ex rel LISA MADIGAN, Attorney General
of the State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

BY:


JANE E. MCBRIDE
Assistant Attorney General
Environmental Enforcement Bureau

500 South Second Street
Springfield, Illinois 62706
(217) 782-9031
Dated 11/30/05



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

November 28, 2005

Mr. Patrick Flachs
Mr. John Collins
Husch & Eppenberger, LLC
190 Carondelet Plaza
Suite 600
St. Louis, Missouri 63105-3441

Via facsimile: (314) 480-1505

Re: *People v. Midwest Grain Products*
PCB No. 97-179

Dear Mr. Flachs:

I am writing in response to issues you have raised regarding our discovery requests.

The first point I would like to address is your refusal to provide any information regarding the Swiss Combi systems. I do not understand how you consider information regarding the Swiss Combi to be irrelevant. The Swiss Combi is the technology you have proposed as best available control technology ("BACT"), and we have accepted based upon your BACT demonstration, to comply with PSD requirements. It is BACT in this matter and your compliance technology, and thus is certainly relevant to the overall resolution of the case. As BACT, the information requested is directly relevant to economic benefits derived by Midwest Grain Products of Illinois, Inc. ("MGP") as well as any claim you may have relevant to the fact you have proposed an acceptable compliance technology and have proceeded to permit the technology. You indicate in your letter you would be willing to discuss our theories as to why you should produce documentation related to the Swiss Combi system. I have set forth the very basics of our justification for the requests.

Our Interrogatory No. 4 (Document Request No. 2)

With regard to information requested in our Interrogatory No. 4, the information requested, again, is necessary for a penalty calculation. As you are aware, economic benefit is now a required portion of any penalty assessed by the Pollution Control Board. Operation and maintenance is a factor in that calculation. Further, I am sure every aspect of the technologies

Exhibit A

installed and placed into operation at the facility will be relevant to the arguments presented at trial in this matter, both with regard to our allegation and to your defenses. MGP has and continues to maintain that no economic benefit was derived resulting from its failure to comply with federal PSD and State permit requirements given costs incurred by the facility relative to the operation and maintenance of feed dryers 651 and 661. Accordingly, documents requested by the State are directly relevant to issues relative to economic benefit and the operation of each emissions source. I am sure you will have operation and maintenance information compiled and available for your own purposes. The amount of money involved in the operation and maintenance of these dryers in addition to the Swiss-Combi system certainly is relevant to the amount of time and money spent making this failed technology operable for these many years it has been in place while the issue of appropriate BACT has been on the table, in addition to costs representative of the installation, operation, and maintenance of the Swiss-Combi system.

Do you have operation and maintenance information available in any form upon which you intend to rely at hearing? Should information responsive to the State's discovery request exist, the information is relevant and should be made available in a useful and usable form. I trust you are as interested in the information as we are.

Interrogatory No. 9 (Document Request No. 7)

Your objection to Interrogatory No. 9 is similar to your objection to Interrogatory No. 4. Without withdrawing or modifying the State's discovery request, I would ask that you produce information as proposed in your second option, that is, information related to hours of operation of dryers 651 and 661 on a yearly basis. If we need additional information beyond what is provided, the State will request that such information be provided consistent with Interrogatory 9.

Interrogatory No. 11 (Document Request No. 7)

In Interrogatory No. 9 we are seeking information on the dates of operation of feed dryers 651 and 661 and the Swiss-Combi system, beginning in 1994 through the present. As you correctly point out, Interrogatory No 11 is much broader. We would expect that you would provide the dates of operation, in response to Interrogatory No. 9, and all other information requested in Interrogatory No. 11 in response to Interrogatory No. 11.

Interrogatory No. 11 does indeed ask for all information relevant to the construction and operation of feed dryers 651 and 661 and the Swiss-Combi, and this information should specifically include all information relevant to emissions testing pertinent to the dryers, all information pertinent to the particulate matter pollution control equipment associated with the dryers, and all information regarding modeling conducted to meet the PSD requirements for the dryers and the Swiss-Combi system that is in place and the one proposed to replace the dryers. All such information is relevant to the installation and operation of both the two feed dryers, and BACT for this case.

Mr. Patrick Flachs, Esq.
November 28, 2005
Page 3

It may be helpful for us to know what form such information is generated, maintained and stored, and what is readily available versus what may not be readily available. Have you conducted any summarization yourself that you might be willing to stipulate to as true and accurate.

Interrogatory No. 26


I am willing to withdraw this interrogatory.

Interrogatory No. 28

I am willing to withdraw this interrogatory.

I remain willing to discuss the issues set forth above. We, of course, will be responding to your motion to strike.

Sincerely,



Jane E. McBride
Assistant Attorney General
(217) 782-9033

cc: Dennis Brown, Esq., IEPA