

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB No. 23-
)	(Enforcement - Air)
AURORA METALS DIVISION L.L.C.,)	
an Indiana limited liability company,)	
)	
Respondent.)	

NOTICE OF FILING

TO: Persons on Attached Service List (VIA ELECTRONIC FILING)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the Complaint, a true and correct copy of which is attached hereto and hereby served upon you. You may be required to answer the charges of the Complaint at a hearing before the Board, at a date set by the Board.

Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the Complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the clerk's office, or an attorney.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
KWAME RAOUL, Attorney General of the State of
Illinois

By: /s/ Ann Marie A. Hanohano
Ann Marie A. Hanohano
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington St., 18th Floor
Chicago, Illinois 60602
(312) 881-0556
annmarie.hanohano@ilag.gov

Date: March 23, 2023

Service List

Aurora Metals Division LLC
Dave Bumbar, Registered Agent
1995 Greenfield Avenue
Montgomery, Illinois 60538

CERTIFICATE OF SERVICE

I, Ann Marie A. Hanohano, an Assistant Attorney General, certify that on the 23th day of March, 2023, I caused to be served the foregoing Notice of Filing and Complaint on the parties named on the attached Service List, by certified mail with return receipt.

/s/ Ann Marie A. Hanohano
Ann Marie A. Hanohano
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602
(312) 881-0556
annmarie.hanohano@ilag.gov

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB No. 23-
)	(Enforcement - Air)
AURORA METALS DIVISION L.L.C.,)	
an Indiana limited liability company,)	
)	
Respondent.)	

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois (“Complainant”), complains of the Respondent, AURORA METALS DIVISION L.L.C., an Indiana limited liability company, as follows:

COUNT I

FAILURE TO TIMELY SUBMIT COMPLETE AND ACCURATE ANNUAL EMISSIONS REPORT FOR CALENDAR YEAR 2020

1. This Complaint is brought on behalf of the People of the State of Illinois by Kwame Raoul, Attorney General of the State of Illinois, on his own motion and at the request of the Illinois Environmental Protection Agency (“Illinois EPA”), against AURORA METALS DIVISION L.L.C. (“Respondent” or “Aurora Metals”), pursuant to Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2020).
2. The Illinois EPA is an administrative agency of the State of Illinois created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2020), and is charged, *inter alia*, with the duty of enforcing the Act.
3. At all times relevant to this Complaint, Aurora Metals has been and is an Indiana limited liability company authorized to transact business in the State of Illinois.

4. At all times relevant to this Complaint, Aurora Metals owned and operated, and continues to own and operate, a nonferrous metal foundry and machine shop located at 1995 Greenfield Avenue, Montgomery, Kane County, Illinois (“Facility”).

5. At all times relevant to this Complaint, Aurora Metals owned and operated, and continues to own and operate, emission units at the Facility consisting of a sand foundry and a permold foundry. The sand foundry consists of three (3) induction furnaces, mold making, core making, pouring, casting, casting shakeout, and sand reclamation. The permold foundry consists of a sand mixer, a core oven, five (5) induction furnaces, five (5) core blowers, casting, pouring, and knockout.

6. The Facility’s emission units are capable of emitting particulate matter, nitrogen oxides, organic material, and sulfur dioxides into the environment.

7. On February 10, 2003, Illinois EPA issued Aurora Metals a revised Lifetime Operating Permit (“Air Permit”) for operations at the Facility. The Air Permit authorized the operation of identified emission units and air pollution control equipment at the Facility.

8. Section 9(a) of the Act, 415 ILCS 5/9(a) (2020), provides as follows:

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.

9. Section 3.315 of the Act, 415 ILCS 5/3.315 (2020), provides the following definition:

“Person” is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

10. Aurora Metals, a limited liability company, is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2020).

11. Section 3.165 of the Act, 415 ILCS 5/3.165 (2020), provides the following definition:

“Contaminant” is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

12. Particulate matter, nitrogen oxides, organic material, and sulfur dioxides are each a “contaminant” as that term is defined by Section 3.165 of the Act, 415 ILCS 5/3.165 (2020).

13. Section 201.302(a) of the Illinois Pollution Control Board (“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 meeting the applicability criteria contained in 35 Ill. Adm. Code 254.102 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 when necessary to accomplish the purposes of the Act and this Chapter.

14. Section 254.102(a)(1) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.102(a)(1), provides as follows:

(a) Subpart B of this Part applies to:

(1) Owners or operators of any source required to have an operating permit in accordance with 35 Ill. Adm. Code 201 that is permitted to emit 25 tons per year or more of any combination of regulated air pollutants, excluding greenhouse gases;

15. At all times relevant to this Complaint, the Facility had the potential to emit a total of 60.47 tons per year of particulate matter, nitrogen oxides, organic material, and sulfur dioxides. Accordingly, the Facility is a source required to have an operating permit in accordance with 35 Ill. Adm. Code 201 that is permitted to emit 25 tons per year or more of any combination of

regulated air pollutants, and therefore meets the applicability criteria contained in Section 254.102(a)(1) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.102(a)(1).

16. 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).

17. 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.

18. Section 211.4370 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.4370, provides the following definition:

“Owner or operator” means any person who owns, operates, leases, controls, or supervises a source, an emission unit or air pollution control equipment.”

19. Aurora Metals is an “owner or operator” as that term is defined by Section 211.4370 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.4370.

20. Section 211.1950 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.1950, provides the following definition:

“Emission unit” means any part or activity at a stationary source that emits or has the potential to emit any air pollutant.”

21. Section 211.6370 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.6370, provides the following definition:

“Stationary source” means any building, structure, facility or installation that emits or may emit any air pollutant.

22. Section 211.370 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.370, provides the following definition:

“Air pollutant” means an air pollution agent or combination of such agents, including any physical, chemical, biological, radioactive (including source material, special nuclear material, and byproduct material) substance or matter which is emitted into or otherwise enters the atmosphere. Such term includes any precursors to the formation of any air pollutant, to the extent that the relevant statute or rule has identified such precursor or precursors for particular purpose for which the term “air pollutant” is used.

23. The Facility is a standalone building, which is a “stationary source,” where Aurora Metals operates a sand foundry and a permold foundry, which are each an “emission unit” capable of emitting particulate matter, nitrogen oxides, organic material, and sulfur dioxides, each of which is an “air pollutant” as those terms are defined in Sections 211.6370, 211.1950, and 211.370, respectively, of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.6370, 211.1950, and 211.370.

24. Beginning on a date or dates better known to Aurora Metals, and continuing to the date of filing of this Complaint, Aurora Metals, as the owner or operator of emission units, was required pursuant to Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Sections 254.132(a) and 254.137(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a) and 254.137(a), to submit Annual Emissions Reports (“AERs”) to the Illinois EPA each year by May 1 for the preceding calendar year.

25. Aurora Metals was required to submit an AER for calendar year 2020 to the Illinois EPA by May 1, 2021.

26. On November 15, 2021, Aurora Metals submitted to the Illinois EPA its AER for the calendar year 2020, approximately 198 days late.

27. By failing to timely submit a complete and accurate AER for calendar year 2020, Aurora Metals violated Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a). Aurora Metals thereby violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2020).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, AURORA METALS DIVISION L.L.C., an Indiana limited liability company, with respect to Count I:

1. Authorizing a hearing in this matter at which time 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) (2020), and Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a);

3. Ordering Respondent to cease and desist from any future violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2020), and Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a);

4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent regulations, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

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

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

COUNT II
FAILURE TO TIMELY SUBMIT COMPLETE AND ACCURATE
ANNUAL EMISSIONS REPORT FOR CALENDAR YEAR 2021

1. This Count is brought on behalf of THE PEOPLE OF THE STATE OF

ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, on his own motion pursuant to Section 31 of the Act, 415 ILCS 5/31 (2020).

2-24. Complainant re-alleges and incorporates herein by reference paragraphs 2 through 24 of Count I, as paragraphs 2 through 24 of this Count II.

25. By May 1, 2022, Aurora Metals was required to submit an AER for calendar year 2021 to the Illinois EPA.

26. As of the date of filing of this Complaint, Aurora Metals has not submitted an AER for calendar year 2021.

27. By failing to timely submit a complete and accurate AER for calendar year 2021, Aurora Metals violated Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a). Aurora Metals thereby violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2020).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, AURORA METALS DIVISION L.L.C., an Indiana limited liability company, with respect to Count II:

1. Authorizing a hearing in this matter at which time 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) (2020), and Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a);

3. Ordering Respondent to cease and desist from any future violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2020), and Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a);

4. Requiring Respondent to submit to the Illinois EPA a complete and accurate AER for calendar year 2021 pursuant to Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a);

5. Assessing against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent regulations, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

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

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

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS
by KWAME RAOUL, Attorney General
of the State of Illinois

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

BY: /s/ Stephen J. Sylvester
STEPHEN J. SYLVESTER, Chief
Environmental Bureau
Assistant Attorney General

Of Counsel:

Ann Marie A. Hanohano
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602
312.881.0556
Primary: annmarie.hanohano@ilag.gov
Secondary: maria.cacaccio@ilag.gov