

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB No. 23-
)	(Enforcement - Air)
KAPPA PRODUCTS CORPORATION,)	
an Illinois corporation,)	
)	
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, Stipulation and Proposal for Settlement, and Motion for Relief from Hearing Requirement, true and correct copies of which are attached hereto and hereby served upon you.

Respectfully submitted,

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

/s/ Rebecca Kanz

Rebecca Kanz
Assistant Attorney General
Environmental Bureau
69 W. Washington Street, 18th Floor
Chicago, IL 60602
(312) 814-3532
Rebecca.Kanz@ilag.gov

Dated: August 16, 2023

SERVICE LIST

Counsel for Respondent

Margaret A. Hill
Blank Rome LLP
One Logan Square
130 North 18th Street
Philadelphia, PA 19103
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CERTIFICATE OF SERVICE

I, the undersigned, certify that I have served on the date of 16th of August, 2023, the attached Notice of Filing, Complaint, Stipulation and Proposal for Settlement, and Motion for Relief from Hearing Requirement upon the persons listed on the foregoing Service List by via electronic mail.

/s/ Rebecca Kanz

Rebecca Kanz
Assistant Attorney General
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COMPLAINT FOR INJUNCTIVE RELIEF AND CIVIL PENALTIES

Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* 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”), complains of Respondent, KAPPA PRODUCTS CORPORATION, an Illinois corporation, as follows:

COUNT I

AIR POLLUTION

1. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* KWAME RAOUL, the Attorney General of the State of Illinois, on his own motion and at the request of Illinois EPA, against Respondent KAPPA PRODUCTS CORPORATION, an Illinois corporation (“Respondent”), pursuant to Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2022).

2. Illinois EPA is an administrative agency of the State of Illinois created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2022), and charged, *inter alia*, with the duty of enforcing the Act.

3. At all times relevant to this Complaint, Respondent was and is an Illinois corporation registered and in good standing with the Illinois Secretary of State's Office.

4. At all times relevant to this Complaint, Respondent operated a grease rendering facility located at 1301 East 99th Street, Chicago, Cook County, Illinois ("Facility").

5. At all times relevant to this Complaint, Respondent supplied vegetable oil-based products, including mixed vegetable oil, interphase vegetable oil, dust control solution, and biofuel feedstock, to livestock and industrial markets by processing residual materials from vegetable oil and the refining industry.

6. At all times relevant to this Complaint, the operations at the Facility included, but were not limited to, the acidulation of soapstock ("Soapstock Operation") and the trapping of grease ("Trap Grease Operation").

7. In its Soapstock Operation, Respondent processes soapstock to extract a mixed layer called "interphase," which is then sold for its protein value. The Soapstock Operation uses acidulation vats to split the soapstock into its oil and water parts. Respondent conducts the entire Soapstock Operation outdoors.

8. In its Trap Grease Operation, Respondent processes material that consists mainly of water, combined with oil and semisolids ("the Material"). As part of the Trap Grease Operation, the Material is openly pumped into a rotating screen, which traps and filters the semisolids from the Material. The semisolids are collected in a hopper located underneath the rotating screen, and is then transferred to an open dumpster that is located outdoors for disposal.

9. At all times relevant to this Complaint, Respondent operated emissions units at the Facility, including:

- a. Three (3) natural gas-fired boilers;

- b. Nine (9) Soapstock storage tanks;
 - c. Two (2) waste material storage tanks;
 - d. Two (2) glycerin storage tanks;
 - e. Seven (7) wastewater storage tanks;
 - f. Ten (10) acidulation vats;
 - g. Two (2) interphase storage tanks;
 - h. Five (5) finished product tanks;
 - i. Four (4) trap grease processing tanks;
 - j. Two (2) trap grease finished product tanks;
 - k. Two (2) caustic solution tanks;
 - l. Seven (7) empty storage tanks;
 - m. One (1) sulfuric acid tank;
 - n. Two (2) diesel fuel tanks; and
 - o. Traffic areas.
10. Respondent's operations at the Facility emit or are capable of emitting volatile organic material ("VOM"), carbon monoxide, nitrogen dioxide, particulate matter, and sulfur dioxide.
11. As of the date of filing of this Complaint, the Facility is located in an area of Environmental Justice ("EJ") concern as identified using Illinois EPA EJ Start.
12. On May 4, 2017, the Illinois EPA issued a Registration of Smaller Sources ("ROSS") Permit No. 73060377 to Respondent for operations at the Facility.
13. On March 17, 2021, the Illinois EPA inspected the Facility in response to an odor complaint from a nearby resident. At that time, there were off-site odors beyond the Facility gate.

Also at that time, the same odors were present inside the Facility at various locations, including but not limited to:

- a. the rail cars collection pit, which serves as a collection point during the Soapstock Operation for any soapstock spillage or leakage that occurs during transfer from the rail cars to the storage tanks;
 - b. the acidulation vats employed in the Soapstock Operation; and
 - c. the Trap Grease Operation, mainly from the Material processed in the rotating screen.
14. Also on March 17, 2021, soapstock and the Material processed in the Trap Grease Operation had been spilled on the Facility grounds.
15. On August 31, 2021, the Illinois EPA received another complaint from another nearby resident, who complained of similar odors emanating from Respondent's Facility.
16. Upon information and belief, Respondent ceased operations at the Facility on December 31, 2022.
17. Section 9(a) of the Act, 415 ILCS 5/9(a) (2022), 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.
18. Section 201.141 of the Illinois Pollution Control Board ("Board") Air Pollution Regulations, 35 Ill. Adm. Code 201.141, provides as follows:
- No person shall cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as, either alone or in combination with contaminants from other sources, to cause or tend to cause air pollution in Illinois, or so as to violate the provisions of this Chapter, or so as to prevent the attainment or maintenance of any applicable ambient air quality standard.

19. Section 3.315 of the Act, 415 ILCS 5/3.315 (2022), 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.

20. Respondent, a corporation, is a “person” as that term is defined by Section 3.315 of the Act, 415 ILCS 5/3.315 (2022).

21. Section 3.165 of the Act, 415 ILCS 5/3.165 (2022), provides the following definition:

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

22. VOM, carbon monoxide, nitrogen dioxide, particulate matter, sulfur dioxide, and the odors emitted from the Facility are each a “contaminant” as that term is defined by Section 3.165 of the Act, 415 ILCS 5/3.165 (2022).

23. Section 3.115 of the Act, 415 ILCS 5/3.115 (2022), provides the following definition:

“Air pollution” is the presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property.

24. The discharge of odors from the Facility unreasonably interfered with the local residents’ enjoyment of life or property, and therefore constitutes “air pollution” as that term is defined by Section 3.115 of the Act, 415 ILCS 5/3.115 (2022).

25. On at least March 17, 2021 and August 31, 2021, and such other dates better known to Respondent, Respondent caused, threatened, or allowed the discharge or emission of

contaminants from the Facility into the environment, so as to cause or tend to cause air pollution, violating Section 9(a) of the Act, 415 ILCS 5/9(a) (2022), and Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, KAPPA PRODUCTS CORPORATION, an Illinois corporation, 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 the Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2022), and Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141;
3. Ordering the Respondent to cease and desist from any future violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2022), and Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141;
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 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 such other relief as the Board deems appropriate and just.

COUNT II

FAILURE TO OPERATE PURSUANT TO FUGITIVE DUST PLAN

1-20. Plaintiff re-alleges and incorporates herein by reference paragraphs 1 through 12 and paragraphs 17 through 24 of Count I, as paragraphs 1 through 20 of this Count II.

21. Section 212.302(a) of the Illinois Air Pollution Control Board's regulations for fugitive particulate matter ("Board Fugitive Particulate Matter Regulations"), 35 Ill. Adm. Code 212.302, provides, in pertinent part:

(a) Sections 212.304 through 212.310 and 212.312 of this Subpart shall apply to all mining operations (SIC major groups 10 through 14), manufacturing operations (SIC major groups 20 through 39 except for those operations subject to Subpart S of this Part (Grain-Handling and Grain-Drying Operations) that are outside the areas defined in Section 212.324(a)(1) of this Part), and electric generating operations (SIC group 491), which are located in the areas defined by the boundaries of the following townships, notwithstanding any political subdivisions contained therein, as the township boundaries were defined on October 1, 1979, in the following counties:

Cook:	All townships
Lake:	Shields, Waukegan, Warren
DuPage:	Addison, Winfield, York
Will:	DuPage, Plainfield, Lockport, Channahon, Peotone, Florence, Joliet
Peoria:	Richwoods, Limestone, Hollis, Peoria, City of Peoria
Tazewell:	Fondulac, Pekin, Cincinnati, Groveland, Washington
Macon:	Decatur, Hickory Point
Rock Island:	Blackhawk, Coal Valley, Hampton, Moline, South Moline, Rock Island, South Rock Island
LaSalle:	LaSalle, Utica
Madison:	Alton, Chouteau, Collinsville, Edwardsville, Fort Russell, Godfrey, Granite City, Nameoki, Venice, Wood River
St. Clair	Canteen, Caseyville, Centerville, St. Clair, Stites, Stookey, Sugar Loaf, Millstadt.

22. Under the standard industrial classification (“SIC”) system utilized by the United States Department of Labor, and referenced by Section 212.302(a) of the Board Fugitive Particulate Matter Regulations, the Facility is classified as part of “Major Group 20: Food and Kindred Products.”

23. At all times relevant to this Complaint, Respondent operated a grease rendering Facility and conducted “manufacturing operations” located in Cook County, and thus was subject to Sections 212.304 through 212.310 and 212.312 of the Board Fugitive Particulate Matter Regulations, 35 Ill. Adm. Code 212.304 through 212.210 and 212.312.

24. Section 212.309(a) of the Board Fugitive Particulate Matter Regulations, 35 Ill. Adm. Code 212.309(a), provides as follows:

- (a) The emission units described in Sections 212.304 through 212.308 and Section 212.316 of this Subpart shall be operated under the provisions of an operating program, consistent with the requirements set forth in Sections 212.310 and 212.312 of this Subpart, and prepared by the owner or operator and submitted to the Agency for its review. Such operating program shall be designed to significantly reduce fugitive particulate matter emissions.

25. Section 211.1950 of the Board Fugitive Particulate Matter Regulations, 35 Ill. Adm. Code 211.1950, provides as follows:

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

26. Section 211.6370 of the Board Fugitive Particulate Matter Regulations, 35 Ill. Adm. Code 211.6370, provides:

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

27. Section 211.370 of the Board Fugitive Particulate Matter Regulations, 35 Ill. Adm. Code 211.370, provides, in relevant part:

“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.

28. The traffic areas at the Facility, which is a “stationary source,” emit or have the capability to emit particulate matter, an “air pollutant,” as those terms are defined by Sections 211.6370 and 211.370 of the Board Fugitive Particulate Matter Regulations, 35 Ill. Adm. Code 211.6370 and 211.370, and therefore the traffic areas each constitute an “emission unit,” as that term is defined by Section 211.1950 of the Board Fugitive Particulate Matter Regulations, 35 Ill. Adm. Code 211.1950.

29. Section 212.306 of the Board Fugitive Particulate Matter Regulations, 35 Ill. Adm. Code 212.306, titled “Traffic Areas” provides as follows:

All normal traffic pattern access areas surrounding storage piles specified in Section 212.304 of this Subpart and all normal traffic pattern roads and parking facilities which are located on mining or manufacturing property shall be paved or treated with water, oils or chemical dust suppressants. All paved areas shall be cleaned on a regular basis. All areas treated with water, oils or chemical dust suppressants shall have the treatment applied on a regular basis, as needed, in accordance with the operating program required by Sections 212.309, 212.310 and 212.312 of this Subpart.

30. On at least March 17, 2021, and such other dates better known to Respondent, Respondent maintained traffic areas at the Facility, which consist of normal traffic pattern roads and a parking lot located on manufacturing property, and as such are covered by Section 212.306 of the Board Fugitive Particulate Matter Regulations, 35 Ill. Adm. Code 212.306, thereby requiring Respondent to operate pursuant to a fugitive particulate matter operating program in accordance with Section 212.309(a) of the Board Fugitive Particulate Matter Regulations, 35 Ill. Adm. Code 212.309(a).

31. Section 211.4370 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 212.4370, 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.

32. Respondent owns and operates the Facility, including the traffic areas, which are emission units, and therefore Respondent is the “owner or operator” of the Facility, as that term is defined in Section 211.4370 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 212.4370.

33. Upon information and belief, Respondent developed a fugitive particulate matter operating program in 2015 (“2015 Program”).

34. At the time of the March 17, 2021 inspection and continuing until August 17, 2021, by failing to implement the 2015 Program and failing to operate pursuant to any fugitive particulate matter operating program designed to reduce fugitive particulate matter emissions, Respondent violated Section 212.309(a) of the Board Fugitive Particulate Matter Regulations, 35 Ill. Adm. Code 212.309(a), and thereby also violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2022).

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, KAPPA PRODUCTS CORPORATION, an Illinois corporation, 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 the Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2022), and Section 212.309(a) of the Board Fugitive Particulate Matter Regulations, 35 Ill. Adm. Code 201.309(a);

3. Ordering the Respondent to cease and desist from any future violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2022), and Section 212.309(a) of the Board Fugitive Particulate Matter Regulations, 35 Ill. Adm. Code 201.309(a);

4. Assessing against the Respondent, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2022), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, and an additional 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 such other relief as the Board deems appropriate and just.

COUNT III

FAILURE TO AMEND FUGITIVE DUST PLAN

1-32. Plaintiff re-alleges and incorporates herein by reference paragraphs 1 through 12 and paragraphs 17 through 24 of Count I, and paragraphs 21 through 33 of Count II, as paragraphs 1-32 of this Count III.

33. Section 212.312 of the Board Fugitive Particulate Matter Regulations, 35 Ill. Adm. Code 212.312, provides as follows:

The operating program shall be amended from time to time by the owner or operator so that the operating program is current. Such amendments shall be consistent with this Subpart and shall be submitted to the Agency for its review.

34. By failing to amend the operating program to reflect current operations at the Facility and submit an amended program to the Illinois EPA for review, Respondent violated Section 212.312 of the Board Fugitive Particulate Matter Regulations, 35 Ill. Adm. Code 212.312, and thereby also violated 9(a) of the Act, 415 ILCS 5/9(a) (2022).

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, KAPPA PRODUCTS CORPORATION, an Illinois corporation, with respect to Count III:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2022), and Section 212.312 of the Board Fugitive Particulate Matter Regulations, 35 Ill. Adm. Code 212.312;
3. Ordering the Respondent to cease and desist from any future violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2022), and Section 212.312 of the Board Fugitive Particulate Matter Regulations, 35 Ill. Adm. Code 212.312;
4. Assessing against the Respondent, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2022), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, and an additional 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 such other relief as the Board deems appropriate and just.

COUNT IV

FAILURE TO KEEP WRITTEN RECORDS AND SUBMIT ANNUAL AND QUARTERLY REPORTS

1-25. Plaintiff re-alleges and incorporates herein by reference paragraphs 1 through 12 and paragraphs 17 through 24 of Count I, and paragraphs 21 through 23 and 32 through 33 of Count II, as paragraphs 1-25 of Count IV.

26. Section 212.316(a) of the Board Fugitive Particulate Matter Regulations, 35 Ill.

Adm. Code 212.316, provides as follows:

- a. Applicability. This Section [212.316] shall apply to those operations specified in Section 212.302 of this Subpart and that are located in areas defined in Section 212.324(a)(1) of this Part.

27. Sections 212.316(g)(1), (g)(2), and (5) of the Board Fugitive Particulate Matter Regulations, 35 Ill. Adm. Code 212.316(g)(1), (g)(2), and (g)(5) provide, in pertinent part, the following:

- g) Recordkeeping and Reporting:
 - 1) The owner or operator of any fugitive particulate matter emission unit subject to this Section shall keep written records of the application of control measures as may be needed for compliance with the opacity limitations of this Section and shall submit to the Agency an annual report containing a summary of such information.
 - 2) The records required under this subsection shall include at least the following:
 - A) The name and address of the source;
 - B) The name and address of the owner and/or operator of the source;
 - C) A map or diagram showing the location of all emission units controlled, including the location, identification, length, and width of roadways;
 - D) For each application of water or chemical solution to roadways by truck: the name and location of the roadway controlled, application rate of each truck, frequency of each application, width of each application, identification of each truck used, total quantity of water or chemical used for each application and, for each application of chemical solution, the concentration and identity of the chemical;
 - E) For application of physical or chemical control agents: the name of the agent, application rate and frequency, and total quantity of agent, and, if diluted, percent of concentration, used each day; and

F) A log recording incident[] when control measures were not used and a statement of explanation.

* * *

5) A quarterly report shall be submitted to the Agency stating the following: the dates any necessary control measures were not implemented, a listing of those control measures, the reasons that the control measures were not implemented, and any corrective actions taken. This information includes, but is not limited to, those dates when controls were not applied based on a belief that application of such control measures would have been unreasonable given prevailing atmospheric conditions, which shall constitute a defense to the requirements of this Section. This report shall be submitted to the Agency thirty (30) calendar days from the end of a quarter. Quarters end March 31, June 30, September 30, and December 31.

28. At all times relevant to this Complaint, Respondent was the “owner or operator” of the Facility’s traffic areas, which each constitute an “emission unit,” as those terms are defined by Section 211.4370 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.4370, and Section 211.1950 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.1950.

29. “Fugitive particulate matter” is defined by Section 211.2490 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.2490, as follows:

“Fugitive particulate matter” means any particulate matter emitted into the atmosphere other than through a stack, provided that nothing in this definition or in 35 Ill. Adm. Code 212, Subpart K shall exempt any emission unit from compliance with other provisions of 35 Ill. Adm. Code 212 otherwise applicable merely because of the absence of a stack.

30. At all times relevant to this Complaint, as part of Respondent’s operations at the Facility, particulate matter was emitted into the atmosphere from the traffic areas, and therefore Respondent emitted “fugitive particulate matter” as that term is defined in Section 211.2490 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.2490. The Facility’s traffic areas, each an “emission unit” that emits “fugitive particulate matter,” therefore each constitute a “fugitive

particulate matter” “emission unit” as those terms are defined in Section 211.1950 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.1950, and Section 211.2490 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.2490.

31. By failing to keep written records of the application of dust control measures utilized at the Facility to comply with the opacity limitations of Section 212.316 of the Board Fugitive Particulate Matter Regulations, 35 Ill. Adm. Code 212.316, and by failing to submit the required annual report for calendar years 2019 and 2020, as well as quarterly reports for the fourth quarter of 2019, all of 2020, and the first quarter of 2021, Respondent violated Sections 212.316(g)(1), (2), and (5) of the Board Fugitive Particulate Matter Regulations, 35 Ill. Adm. Code 212.316(g)(1), (2), and (5), and thereby also violated 9(a) of the Act, 415 ILCS 5/9(a) (2022).

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, KAPPA PRODUCTS CORPORATION, an Illinois corporation, with respect to Count IV:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;

2. Finding that the Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2022), and Section 212.316(g)(1), (2), and (5) of the Board Fugitive Particulate Matter Regulations, 35 Ill. Adm. Code 212.316(g)(1), (2), and (5);

3. Ordering the Respondent to cease and desist from any future violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2022), and Section 212.316(g)(1), (2), and (5) of the Board Fugitive Particulate Matter Regulations, 35 Ill. Adm. Code 212.316(g)(1), (2), and (5);

4. Assessing against the Respondent, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2022), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, and an additional 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 such other relief as the Board deems appropriate and just.

PEOPLE OF THE STATE OF ILLINOIS,
ex rel. 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:
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Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
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MOTION FOR RELIEF FROM HEARING REQUIREMENT

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, and pursuant to Section 31(c)(2) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31(c)(2) (2022), moves that the Illinois Pollution Control Board (“Board”) grant the parties in the above-captioned matter relief from the hearing requirement imposed by Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2022). In support of this motion, Complainant states as follows:

1. The Complaint in this matter alleges violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2022), and Sections 201.141, 212.309(a), 212.312, and 212.316(g)(1), (2), and (5) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141, 212.309(a), 212.312, and 212.316(g)(1), (2), and (5).
2. The parties have reached agreement on all outstanding issues in this matter.
3. This agreement is presented to the Board in a Stipulation and Proposal for Settlement filed this same date.

4. All parties agree that a hearing on the Stipulation and Proposal for Settlement is not necessary, and respectfully request relief from such a hearing as allowed by Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2022).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby requests that the Board grant this motion for relief from the hearing requirement set forth in Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2022).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

KWAME RAOUL

Attorney General of the State of Illinois

BY: /s/ Rebecca Kanz

Rebecca Kanz

Assistant Attorney General

Environmental Bureau

Illinois Attorney General's Office

69 W. Washington Street, Suite 1800

Chicago, Illinois 60602

(773) 590-7968

Primary: Rebecca.Kanz@ilag.gov

Secondary: Maria.Cacaccio@ilag.gov

DATE: August 16, 2023

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STIPULATION AND PROPOSAL FOR SETTLEMENT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (“Illinois EPA”), and Kappa Products Corporation (“Respondent”), (collectively “Parties to the Stipulation”), have agreed to the making of this Stipulation and Proposal for Settlement (“Stipulation”) and submit it to the Illinois Pollution Control Board (“Board”) for approval. This stipulation of facts is made and agreed upon for purposes of settlement only and as a factual basis for the Board’s approval of this Stipulation and issuance of relief. None of the facts stipulated herein shall be introduced into evidence in any other proceeding regarding the violations of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/1, et seq. (2022), and the Board’s regulations, alleged in the Complaint except as otherwise provided herein. It is the intent of the Parties to the Stipulation that it be a final adjudication of this matter.

I. STATEMENT OF FACTS

A. Parties

1. On August 16, 2023, a Complaint was filed 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 upon the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2022),

against Respondent.

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 (2022).

3. At all times relevant to the Complaint, Respondent was and is an Illinois corporation that is authorized to transact business in the State of Illinois.

4. Until January 7, 2022, Respondent operated an “acidulated oil processing facility,” and until August 12, 2022, Respondent operated a trap grease processing facility, located at 1301 East 99th Street, Chicago, Cook County, Illinois (“Facility” or “Site”).

5. At all times relevant to the Complaint, Respondent supplied vegetable oil-based products, including mixed vegetable oil, interphase vegetable oil, dust control solution, and biofuel feedstock, to livestock and industrial markets by processing residual materials from vegetable oil and the refining industry.

6. At all times relevant to this Complaint, Respondent operated emissions units at the Facility, including:

- a. Three (3) natural gas-fired boilers;
- b. Nine (9) Soapstock storage tanks;
- c. Two (2) waste material storage tanks;
- d. Two (2) glycerin storage tanks;
- e. Seven (7) wastewater storage tanks;
- f. Ten (10) acidulation vats;
- g. Two (2) interphase storage tanks;
- h. Five (5) finished product tanks;
- i. Four (4) trap grease processing tanks;

- j. Two (2) trap grease finished product tanks;
- k. Two (2) caustic solution tanks;
- l. Seven (7) empty storage tanks;
- m. One (1) sulfuric acid tank;
- n. Two (2) diesel fuel tanks; and
- o. Traffic areas.

8. Respondent's operations at the Facility emitted or were capable of emitting volatile organic material ("VOM"), carbon monoxide, nitrogen dioxide, particulate matter, and sulfur dioxide.

9. As of the date of filing of this Complaint, the Facility is located in an area of Environmental Justice ("EJ") concern as identified using Illinois EPA EJ Start.

10. Respondent ceased operations at the Facility on December 31, 2022.

B. Allegations of Non-Compliance

Complainant contends that the Respondent has violated the following provisions of the Act and Board regulations:

- Count I: Causing or tending to allow air pollution in violation of Section 9(a) of the Act, 415 ILCS 5/9(a), and Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141.
- Count II: Failure to operate pursuant to a fugitive dust plan in violation of Section 9(a) of the Act, 415 ILCS 5/9(a), and Section 212.309(a) of the Board Fugitive Particulate Matter Regulations, 35 Ill. Adm. Code 212.309(a).
- Count III: Failure to amend fugitive dust plan in violation of Section 9(a) of the Act, 415 ILCS 5/9(a), and Section 212.312 of the Board Fugitive Particulate Matter Regulations, 35 Ill. Adm. Code 212.312.
- Count IV: Failure to keep written records and submit annual and quarterly reports in violation of Section 9(a) of the Act, 415 ILCS 5/9(a), and Section 212.316(g)(1), (2), and (5) of the Board Fugitive Particulate Matter

Regulations, 35 Ill. Adm. Code 212.316(g)(1), (2), and (5).

C. Non-Admission of Violations

Respondent represents that it has entered into this Stipulation for the purpose of settling and compromising disputed claims without having to incur the expense of contested litigation. By entering into this Stipulation and complying with its terms, Respondent does not affirmatively admit the allegations of violation within the Complaint and referenced within Section I.B herein, and this Stipulation shall not be interpreted as including such admission.

D. Compliance Activities to Date

1. On August 17, 2021, Respondent submitted a fugitive dust plan and annual and quarterly reports for calendar years 2019 and 2020 to Illinois EPA.
2. In September 2021, Respondent installed tank level sensors in the soapstock, wastewater, and finished product tanks at the Facility.
3. On November 5, 2021, Respondent provided Illinois EPA with the results of its odor investigation and potential odor sources at the Facility.
4. On January 7, 2022, Respondent ceased accepting soapstock at the Facility.
5. On January 10, 2022, Respondent submitted a proposed odor assessment protocol to Illinois EPA.
6. On January 14, 2022, Respondent submitted its quarterly report for the fourth quarter of 2021 and its annual report for calendar year 2021 to Illinois EPA.
7. On July 18, 2022, Respondent submitted a revised odor assessment protocol to Illinois EPA.
8. On August 12, 2022, Respondent, at its own discretion, ceased accepting and processing trap grease at the Facility.

II. APPLICABILITY

This Stipulation shall apply to and be binding upon the Parties to the Stipulation. Respondent shall not raise as a defense to any enforcement action taken pursuant to this Stipulation the failure of any of its officers, directors, agents, employees or successors or assigns to take such action as shall be required to comply with the provisions of this Stipulation. This Stipulation may be used against Respondent in any subsequent enforcement action or permit proceeding as proof of a past adjudication of violation of the Act and the Board Regulations for all violations alleged in the Complaint in this matter, for purposes of Sections 39 and 42 of the Act, 415 ILCS 5/39 and 42 (2022).

III. IMPACT ON THE PUBLIC RESULTING FROM ALLEGED NON-COMPLIANCE

Section 33(c) of the Act, 415 ILCS 5/33(c) (2022), provides as follows:

In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges, or deposits involved including, but not limited to:

1. the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
2. the social and economic value of the pollution source;
3. the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;
4. the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
5. any subsequent compliance.

In response to these factors, the Parties to the Stipulation state the following:

1. The Illinois EPA's information gathering responsibilities were hindered by the

Respondent's violations thereby threatening human health and the environment.

2. There was a social and economic benefit to the Facility during its operations.
3. Operation of the Facility was suitable for the area in which it is located.
4. Complying with record keeping and reporting requirements, conducting an odor evaluation and odor emissions testing at the Facility, and developing and implementing an odor control plan was both technologically practical and economically reasonable prior to the Facility ceasing operations.
5. Respondent cooperated with Illinois EPA and took steps towards compliance with the Act and the Board regulations prior to ceasing operations at the Facility.

IV. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h) (2022), provides as follows:

In determining the appropriate civil penalty to be imposed under . . . this Section, the Board is authorized to consider any matters of record in mitigation or aggravation of penalty, including but not limited to the following factors:

1. the duration and gravity of the violation;
2. the presence or absence of due diligence on the part of the respondent in attempting to comply with requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;
3. any economic benefits accrued by the respondent because of delay in compliance with requirements, in which case the economic benefits shall be determined by the lowest cost alternative for achieving compliance;
4. the amount of monetary penalty which will serve to deter further violations by the respondent and to otherwise aid in enhancing voluntary compliance with this Act by the respondent and other persons similarly subject to the Act;
5. the number, proximity in time, and gravity of previously adjudicated violations of this Act by the respondent;
6. whether the respondent voluntarily self-disclosed, in accordance with subsection i of this Section, the non-compliance to the Agency;

7. whether the respondent has agreed to undertake a “supplemental environmental project”, which means an environmentally beneficial project that a respondent agrees to undertake in settlement of an enforcement action brought under this Act, but which the respondent is not otherwise legally required to perform; and
8. whether the respondent has successfully completed a Compliance Commitment Agreement under subsection (a) of Section 31 of this Act to remedy the violations that are the subject of the complaint.

In response to these factors, the Parties to the Stipulation state as follows:

1. Respondent caused air pollution through its odorous emissions from the Facility, failed to operate pursuant to a fugitive dust plan, failed to amend its prior fugitive dust plan, and failed to keep written records and submit annual and quarterly reports to Illinois EPA. The air pollution violations began in at least 2019 and continued until Respondent ceased accepting and processing trap grease water on August 12, 2022. The violations of the Board’s fugitive dust requirements began in 2019 and continued until Illinois EPA notified Respondent of the violations in 2021.
2. While Respondent was responsive to Illinois EPA, it did not comply with Illinois EPA’s requests and made little progress in controlling odors from its operations and returning to compliance.
3. The civil penalty takes into account any economic benefit realized by Respondent as a result of avoided or delayed compliance.
4. Complainant has determined, based upon the specific facts of this matter, that a penalty of thirty-two thousand dollars (\$32,000) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.
5. To Complainant’s knowledge, Respondent has no previously adjudicated violations of the Act.

6. Self-disclosure is not at issue in this matter.

7. The settlement of this matter does not include a supplemental environmental project.

8. A Compliance Commitment Agreement was not at issue in this matter.

V. TERMS OF SETTLEMENT

A. Penalty Payment

The Respondent shall pay a civil penalty in the sum of thirty-two thousand dollars (\$32,000) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

B. Interest and Default

1. If Respondent fails to make any payment required by this Stipulation on or before the date upon which the payment is due, Respondent shall be in default and the remaining unpaid balance of the penalty, plus any accrued interest, shall be due and owing immediately. In the event of default, the Complainant shall be entitled to reasonable costs of collection, including reasonable attorney's fees.

2. Pursuant to Section 42(g) of the Act, interest shall accrue on any penalty amount owed by the Respondent not paid within the time prescribed herein. Interest on unpaid penalties shall begin to accrue from the date such are due and continue to accrue to the date full payment is received. Where partial payment is made on any penalty amount that is due, such partial payment shall be first applied to any interest on unpaid penalties then owing.

C. Payment Procedures

1. All payments required by this Stipulation shall be made by certified check or money order payable to the Illinois EPA for deposit into the Environmental Protection Trust Fund ("EPTF"). Payments shall be sent by first class mail and delivered to:

Illinois Environmental Protection Agency
Fiscal Services
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

2. The case name and case number shall appear on the face of the certified check or money order.

3. A copy of the certified check or money order and any transmittal letter shall be sent to:

Rebecca Kanz
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602

D. Future Compliance

1. This Stipulation in no way affects the responsibilities of Respondent to comply with any other federal, state or local laws or regulations, including but not limited to the Act and the Board Regulations.

2. Respondent shall cease and desist from future violations of the Act and Board Regulations that were the subject matter of the Complaint.

E. Release from Liability

In consideration of Respondent's payment of the thirty-two thousand-dollar (\$32,000) penalty, its commitment to cease and desist as contained in Section V.D.2 above, and upon the Board's approval of this Stipulation, the Complainant releases, waives and discharges Respondent from any further liability or penalties for the violations of the Act and Board regulations that were the subject matter of the Complaint herein. The release set forth above does not extend to any matters other than those expressly specified in Complainant's Complaint filed on

August 16, 2023. The Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against Respondent with respect to all other matters, including but not limited to, the following:

- a. criminal liability;
- b. liability for future violation of state, federal, local, and common laws and/or regulations;
- c. liability for natural resources damage arising out of the alleged violations; and
- d. liability or claims based on the Respondent's failure to satisfy the requirements of this Stipulation.

Nothing in this Stipulation is intended as a waiver, discharge, release, or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the State of Illinois may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315, or entity other than Respondent.

F. Enforcement of Stipulation

Upon the entry of the Board's Order approving and accepting this Stipulation, that Order is a binding and enforceable order of the Board and may be enforced as such through any and all available means.

G. Execution of Stipulation

The undersigned representatives for the Parties to the Stipulation certify that they are fully authorized by the party whom they represent to enter into the terms and conditions of this Stipulation and to legally bind them to it. This Stipulation may be executed by the parties in one or more counterparts, all of which taken together shall constitute one and the same instrument.

WHEREFORE, the Parties to the Stipulation request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

PEOPLE OF THE STATE OF ILLINOIS

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

KWAME RAOUL
Attorney General
State of Illinois

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

JOHN J. KIM, Director
Illinois Environmental Protection Agency

BY: 
STEPHEN J. SYLVESTER, Chief
Environmental Bureau
Assistant Attorney General

BY: 
CHARLES W. GUNNARSON
Chief Legal Counsel

DATE: August 11, 2023

DATE: 8/10/23

KAPPA PRODUCTS CORPORATION

BY: _____

ITS: _____

DATE: _____

PEOPLE OF THE STATE OF ILLINOIS

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

KWAME RAOUL
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JOHN J. KIM, Director
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BY: _____
STEPHEN J. SYLVESTER, Chief
Environmental Bureau
Assistant Attorney General

BY: _____
CHARLES W. GUNNARSON
Chief Legal Counsel

DATE: _____

DATE: _____

KAPPA PRODUCTS CORPORATION

BY: 
RYAN WURGLER

ITS: CEO

DATE: 8-10-23