

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED  
CLERK'S OFFICE

AUG 21 2003

STATE OF ILLINOIS  
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,

Complainant,

v.

No. PCB 03220

LEHIGH PRESS, INC., a Pennsylvania  
corporation, a/k/a LEHIGH PRESS-  
CADILLAC, LEHIGH CADILLAC-  
DIRECT, LEHIGH DIGITAL and LEHIGH  
DIRECT,

Respondent.

**NOTICE OF FILING**

To: Zemeheret Bereket-Ab  
Assistant Attorney General  
Environmental Bureau  
188 West Randolph Street  
20th Floor  
Chicago, IL 60601

PLEASE TAKE NOTICE that on August 21, 2003, there was filed with the Clerk of the Illinois Pollution Control Board, the attached **ANSWER TO COMPLAINT**, a true and correct copy of which is herewith served upon you.

Respectfully submitted,

LEHIGH PRESS, INC.

By: 

One of Its Attorneys

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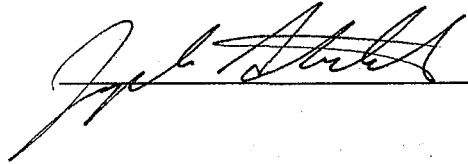
Dated: August 21, 2003

**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the foregoing Answer to Complaint was served on:

Zemeheret Bereket-Ab  
Assistant Attorney General  
Environmental Bureau  
188 West Randolph Street  
20th Floor  
Chicago, IL 60601

by depositing the same in the U.S. mail, first-class postage prepaid, at 222 North LaSalle Street, Chicago, Illinois 60601-1003 by 5:00 p.m. on August 21, 2003. The undersigned certifies that this filing has been submitted on recycled paper.



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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

**RECEIVED**

CLERK'S OFFICE

AUG 21 2003

STATE OF ILLINOIS  
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,

Complainant,

v.

No. PCB-03-220

LEHIGH PRESS, INC., a Pennsylvania corporation, a/k/a LEHIGH PRESS-CADILLAC, LEHIGH CADILLAC-DIRECT, LEHIGH DIGITAL and LEHIGH DIRECT,

Respondent.

**ANSWER TO COMPLAINT**

Defendant, LEHIGH PRESS, INC., ("Lehigh"), through its counsel, answers the Complaint of plaintiff, People of the State of Illinois, as follows:

**COUNT I**  
**CAUSING OR ALLOWING AIR POLLUTION**

**ALLEGATION NO. 1:** This Complaint is brought by Attorney General Lisa Madigan on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA") pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2002).

**ANSWER:** Lehigh admits that the Complaint purports to be brought on behalf of the People of the State of Illinois by Attorney General Lisa Madigan pursuant to terms and provisions of the Illinois Environmental Protection Act (the "Act"); Lehigh denies it is liable under the Act; Lehigh lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 1.

**ALLEGATION NO. 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 (2002), and charged, inter alia, with the duty of enforcing the Act.

**ANSWER:** Lehigh admits the allegations of paragraph 2.

**ALLEGATION NO. 3:** Respondent, Lehigh Press, Inc., is a Pennsylvania corporation qualified to do business in the State of Illinois. The Illinois Secretary of State's corporate records and business registration show that Lehigh Press, Inc. uses several trade style names such as Lehigh Press-Cadillac, Lehigh Cadillac -Direct, Lehigh Digital and Lehigh Direct (hereinafter referred to as "Lehigh").

**ANSWER:** Lehigh admits the allegations of paragraph 3.

**ALLEGATION NO. 4:** At all times relevant to this Complaint, Lehigh owned and operated a commercial printing facility located at 25th and Lexington Avenue, Broadview, Cook County, Illinois ("Facility").

**ANSWER:** Lehigh admits the allegations of paragraph 4.

**ALLEGATION NO. 5:** At the Facility, Lehigh operates eight emission units which consist of heatset web offset lithographic printing presses with dryers.

**ANSWER:** Lehigh admits the allegations of paragraph 5.

**ALLEGATION NO. 6:** On February 24, 1999, the Illinois EPA issued to Lehigh Press-Cadillac Clean Air Act Permit Program permit No. 95100080 to operate eight emission source(s) and pollution control equipment consisting of heatset web offset lithographic printing presses with dryers including Press # 34. The permit expires on February 24, 2004.

**ANSWER:** Lehigh admits that on or about February 24, 1999, the Illinois EPA issued Clean Air Act Permit Program permit No. 95100080 and that the permit expires on February 24, 2004; Lehigh states that the terms of the permit speak for themselves and denies the allegations of paragraph 6 to the extent inconsistent therewith.

**ALLEGATION NO. 7:** On May 29, 2001, the Illinois EPA issued construction permit No. 01040039 to Lehigh Cadillac-Direct to construct a ninth press(Press # 47).

**ANSWER:** Lehigh admits the allegations of paragraph 7.

**ALLEGATION NO. 8:** On January 16, 2002, the Cook County Department of Environmental Control ("CCDEC") inspected the Facility and observed the following violations of the Act, Illinois Pollution Control Board ("Board") Air Pollution Regulations, and Respondent's CAAPP permit No. 95100080:

- failure to promptly notify the Illinois EPA of noncompliance with CAAPP permit No. 95100080;

- failure to operate and maintain the flame oxidizer for Press #34 above the required temperature of 1400° F during operation of the print line as required by CAAPP permit no. 95100080;
- failure to operate the flame oxidizer for Press #34 so that volatile organic material ("VOM") emissions from the press dryer exhaust are reduced by 90 percent;
- failure to install, calibrate, operate and maintain, in accordance with the manufacturer's specifications, a continuous recorder on the temperature monitoring device(s), such as a strip chart, recorder or computer, with at least the same accuracy as the temperature monitor, for the flame oxidizer on Press #34;
- failure to collect and record daily afterburner monitoring data for the flame oxidizer on Press 34;

**ANSWER:** Lehigh admits that on or about January 16, 2002, Cook County Department of Environmental Control inspected Lehigh's facility; Lehigh denies that it has violated the Act, Illinois Pollution Control Board Air Pollution Regulations, or its CAAPP; Lehigh admits that the CCDEC claimed the enumerated violations as a result of its inspection.

**ALLEGATION NO. 9:** On the basis of the CCDEC's observations, the Illinois EPA, on May 16, 2002, issued a violation notice to Lehigh Cadillac-Direct for violations of the Act, Board regulations and CAAPP permit conditions.

**ANSWER:** Lehigh admits that or about May 16, 2002, the Illinois EPA issued a violation notice; Lehigh denies that it violated the Act or that it should be held liable thereunder.

**ALLEGATION NO. 10:** Section 9(a) of the Act, 415 ILCS 5/9(a) (2002), 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

**ANSWER:** Lehigh admits that paragraph 10 accurately quotes from the section of the Act cited therein.

**ALLEGATION NO. 11:** Section 201.141 of the Illinois Pollution Control Board (“Board”) Air Pollution Regulations, 35 Ill. Adm. Code 201.141, titled, Prohibition of Air Pollution, provides as follows:

No person shall cause 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.

**ANSWER:** Lehigh admits that paragraph 11 accurately quotes from the section of the regulations cited therein.

**ALLEGATION NO. 12:** Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102, defines “air pollution” as:

The presence in the atmosphere of one or more air 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.

**ANSWER:** Lehigh admits that paragraph 12 accurately quotes from the section of the regulations cited therein.

**ALLEGATION NO. 13:** Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102, defines “air contaminant” as:

Any solid, liquid or gaseous matter, any odor or any form of energy, that is capable of being released into the atmosphere from an emission source.

**ANSWER:** Lehigh admits that paragraph 13 accurately quotes from the section of the regulations cited therein.

**ALLEGATION NO. 14:** Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6) (a) (2002), titled, Prohibitions, provides as follows:

It shall be unlawful for any person to violate any terms or conditions of a permit issued under this Section, to operate any CAAPP source except in compliance with a permit issued by the [Illinois Environmental Protection] Agency under this Section or to violate any other applicable requirements.

**ANSWER:** Lehigh admits that paragraph 14 accurately quotes from the section of the Act cited therein.

**ALLEGATION NO. 15:** Section 3.26 of the Act, 415 ILCS 5/32.6 (2002), defines “person” as follows:

“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.

**ANSWER:** Lehigh admits that paragraph 15 accurately quotes from the section of the Act cited therein.

**ALLEGATION NO. 16:** Lehigh is a person as that term is defined in Section 3.26 of the Act, 415 ILCS 5/3.26 (2002).

**ANSWER:** Paragraph 16 states a legal conclusion to which no response is required; to the extent a response is required, Lehigh admits the allegations of paragraph 16.

**ALLEGATION NO. 17:** Section 39.5(l) of the Act, 415 ILCS 5/39.5(l) (2002), titled, Definitions, provides the following relevant definitions:

“CAAPP” means the Clean Air Act Permit Program.

“CAAPP Permit” or “permit” means any permit issued, renewed, amended, modified or revised pursuant to Title V of the Clean Air Act.

“CAAPP Source” means any source for which the owner or operator is required to obtain a CAAPP permit.

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

“Owner or operator” means any person who owns, leases, operates, controls, or supervises a stationary source.

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

**ANSWER:** Lehigh admits that paragraph 17 accurately quotes from the section of the Act cited therein.

**ALLEGATION NO. 18:** Lehigh is an owner or operator because it owns and operates the Lehigh-Cadillac stationary source.

**ANSWER:** Paragraph 18 states a legal conclusion to which no response is required; to the extent a response is required, Lehigh admits the allegations of paragraph 18.

**ALLEGATION NO. 19:** The nine heatset web offset lithographic printing presses are emission units that have the potential to emit regulated air pollutants.

**ANSWER:** Lehigh denies that it operates nine printing presses; Lehigh admits the remaining allegations of paragraph 19.

**ALLEGATION NO. 20:** The Lehigh facility is a stationary source because it is a structure or facility that emits or may emit any regulated air pollutants such as volatile organic materials ("VOMs").

**ANSWER:** Lehigh admits the allegations of paragraph 20.

**ALLEGATION NO. 21:** VOMs, air contaminants, are gaseous matter that are capable of being released into the atmosphere from an emission source as the term "air contaminant" is defined by Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102.

**ANSWER:** Paragraph 21 states a legal conclusion to which no response is required; to the extent a response is required, Lehigh lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 21.

**ALLEGATION NO. 22:** Section 218.407(a)(1)(c) of the Board Air Pollution Regulations, titled, Emission Limitations and Control Requirements for Lithographic Printing Lines on and after March 15, 1996, 35 Ill. Adm. Code 218.407(a)(1)(c), provides as follows:

- (a) On and after March 15, 1996, no owner or operator of lithographic printing line(s) subject to the requirements of this Subpart shall:
  - 1) Cause or allow the operation of any heatset web offset lithographic printing line unless:
  - C) An afterburner is installed and operated so that VOM emissions (excluding methane and ethane) from the press dryer exhaust(s) are reduced by 90 percent, by weight, or to a maximum afterburner exhaust outlet concentration of 20 ppmv (as carbon).



**ANSWER:** Lehigh admits that paragraph 22 accurately quotes from the section of the regulations cited therein.

**ALLEGATION NO. 23:** Condition 7.1.3(e)(i)(C) of CAAPP permit No. 95100080 issued to Respondent provides as follows:

An afterburner is installed and operated so that VOM emissions (excluding methane and ethane) from the press dryer exhaust(s) are reduced by 90 percent, by weight, or to a maximum afterburner exhaust outlet concentration of 20 ppmv (as carbon).

**ANSWER:** Lehigh admits that paragraph 23 accurately quotes from the section of its CAAPP permit No. 95100080. Further answering, Lehigh states that it reduced its volatile organic emissions by more than 90%, by weight, at all relevant times.

**ALLEGATION NO. 24:** Condition 7.1.5(a) of CAAPP permit No. 95100080 issued to Lehigh-Cadillac on February 24, 1999, provides as follows:

The afterburners (2013, 2046, and the flame oxidizer) combustion chamber shall be preheated to the manufacturer's recommended temperature but not lower than 1400' F, before the printing process is begun, and this temperature shall be maintained during operation of the affected printing lines.

**ANSWER:** Lehigh admits the allegations of paragraph 24; further answering, Lehigh states that the temperature limit contained in paragraph 24 is not necessary to reduce volatile organic materials by more than 90% as required by law, and that the Illinois EPA was aware of this fact and the appropriate lower operating temperature as established by Lehigh through a December 13, 1990 test observed by Mr. George Kimura of the Illinois EPA, and reported on January 22, 1991 by Lehigh to the Illinois EPA.

**ALLEGATION NO. 25:** From February 1999, until July 2002, Respondent failed to operate the afterburner of Press #34 at or above the minimum temperature of 1400° F as required by permit condition 7.1.5(a) of CAAPP permit No. 95100080.

**ANSWER:** Lehigh admits that it did not operate its afterburner of press #34 at or above the temperature 1400°F; further answering, Lehigh states that its actual operating temperature

did reduce volatile organic material emissions by more than 90%, a fact established by Lehigh in December 1990 and reported to the Illinois EPA in January, 1991, and that Lehigh should not have been required to operate the flame oxidizer at 1400° since that requirement in the CAAPP permit was contrary to the operating temperature as established to the Illinois EPA in 1990 and which should have been utilized by the Illinois EPA in the CAAPP permit, further answering, Lehigh states that the 1400° temperature requirement is unlawful and unenforceable as it was not required in order to reduce emissions of volatile organic materials by the required 90%.

**ALLEGATION NO. 26:** The required minimum operating temperature of 1400° F would ensure a 90 percent reduction in VOM emissions as required by 35 Ill. Adm. Code 218.407(a)(1)(c) and permit condition 7.1.5(a).

**ANSWER:** Lehigh denies the allegations of paragraph 26.

**ALLEGATION NO. 27:** By operating the afterburner of press #34 at a temperature below 1400°F, Respondent failed to demonstrate compliance with the 90% reduction in VOM emissions, thereby, causing, threatening or allowing the release of VOM, air contaminants, into the environment in the State of Illinois.

**ANSWER:** Lehigh denies the allegations of paragraph 27.

**ALLEGATION NO. 28:** By causing, threatening or allowing VOM, air contaminants, to be released into the environment, Respondent caused, threatened, or allowed air pollution in Illinois in violation of Section 9(a) of the Act and Section 201.141 of the Board Air Pollution Regulations.

**ANSWER:** Lehigh denies the allegations of paragraph 28.

**ALLEGATION NO. 29:** By operating the afterburner at a temperature below 1400°F and by failing to demonstrate that it reduces VOM emissions from the Facility by 90%, Respondent violated Sections 9(a) and 39.5(6)(a) of the Act, 415 ILCS 5/9(a) and 39.5(6) (a) (2002), 35 111. Adm. Code 218.407(a) (1) (c), and conditions 7.1.5(a) and 7.1.3(e)(i)(C) of CAAPP permit No. 95100080.

**ANSWER:** Paragraph 29 states a legal conclusion to which no response is required; to the extent a response is required, Lehigh denies the allegations of paragraph 29.

WHEREFORE, defendant, Lehigh Press, Inc. prays for judgment in its favor and against plaintiff, and such other relief as the Pollution Control Board deems appropriate.

**COUNT II**  
**FAILURE TO INSTALL RECORDING DEVICES AND FAILURE TO**  
**COLLECT MONITORING DATA**

1-20. Complainant realleges and incorporates by reference herein, paragraphs 1 through 6 and paragraphs 8-21 of Count I as paragraphs 1 through 20 of this Count II.

**ANSWER:** Lehigh incorporates by reference its answers to paragraphs 1 through 6 and paragraphs 8 through 21 of Count I as if fully restated in this paragraph.

**ALLEGATION NO. 21:** Section 9(b) of the Act, 415 ILCS 5/9(b)(2002), provides as follows:

No person shall:

- b. Construct, install, or operate any equipment, facility, vehicle, vessel, or aircraft capable of causing or contributing to air pollution or designed to prevent air pollution, of any type designated by Board regulations, without a permit granted by the Agency, or in violation of any conditions imposed by such permit.

**ANSWER:** Lehigh admits that paragraph 21 accurately quotes from the section of the regulations cited therein.

**ALLEGATION NO. 22:** Section 218.410(c) (2) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.410(c)(2), titled, Monitoring Requirements for Lithographic Printing, provides as follows:

- c) Afterburners For Heatset Web Offset Lithographic Printing Line(s). If an afterburner is used to demonstrate compliance, the owner or operator of a heatset web offset lithographic printing line subject to Section 218.407(a)(1)(C) of this Subpart shall:
  - 2) Install, calibrate, operate and maintain, in accordance with manufacturer's specifications, a continuous recorder on the temperature monitoring device(s), such as a strip chart, recorder or computer, with at least the same accuracy as the temperature monitor.

**ANSWER:** Lehigh admits that paragraph 22 accurately quotes from the section of the regulations cited therein.

**ALLEGATION NO. 23:** Condition 7.1.9(c)(ii) of CAAPP permit No. 95100080 provides as follows:

Pursuant to 35 IAC 218.411(b)(3), an owner or operator of a heatset web offset lithographic printing line(s) subject to the control requirements of Condition 7.1.3(e)(i)(C) (see also 35 IAC 218.407(a)(1)(C)) shall collect and record daily the following information for each heatset web offset lithographic printing line subject to the requirements of Condition 7.1.3(e)(i)(c) (see also 35 IAC 218.407(a)(1)(c):

A log of operating time for the afterburner, monitoring equipment, and the associated printing press [35 IAC 218.411(b)(3)(B)];

**ANSWER:** Lehigh admits that paragraph 23 accurately quotes from the section of the CAAPP permit No. 95100080 cited therein.

**ALLEGATION NO. 24:** Section 218.411(b)(3) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.411(b)(3), titled, Recording and Reporting for Lithographic Printing, provides, in pertinent part, as follows:

- b) An owner or operator of a heatset web offset lithographic printing line(s) subject to the control requirements of Section 218.407(a)(1)(C) or (b)(1) of this Subpart shall comply with the following:
  - 3) On and after March 15, 1996, collect and record daily the following information for each heatset web offset lithographic printing line subject to the requirements of Section 218.407(a)(1)(C) ( or (b)(1) of this Subpart:
    - A) Afterburner or other approved control device monitoring data in accordance with Section 218.410(c) or (d) of this Subpart, as applicable;
    - B) A log of operating time for the afterburner or other approved control device, monitoring equipment, and the associated printing line;
    - C) A maintenance log for the afterburner or other approved control device and monitoring equipment detailing all routine and non-routine maintenance performed, including dates and duration of any outages;

**ANSWER:** Lehigh admits that paragraph 24 accurately quotes from the sections of the Regulations cited therein.

**ALLEGATION NO. 25:** Operating permit condition 7.1.9(c)(i) of CAAPP permit No 95100080 provides as follows:

Pursuant to 31 IAC 218.411(b)(3), an owner or operator of a heatset web offset lithographic printing line(s) subject to control requirements of Condition 7.1.3(e)(i)(C) (see also 35 IAC 218.407(a)(1)(C) shall collect and record daily the following information for each heatset web offset lithographic printing line subject to the requirements of Condition 7.1.3(e)(i)(C) (see also 35 IAC 218.407(a)(1)(C)):

- i. Afterburner monitoring data in accordance with Condition 7.1.8(c) (see also 35 IAC 218.401(c) [35 IAC 218.411(b)(3)(A)];

**ANSWER:** Lehigh admits that paragraph 25 accurately quotes from the section of the CAAPP permit No. 95100080 cited therein.

**ALLEGATION NO. 26:** The afterburner on Press #34 was equipped with a chart recorder. However, in June 1997, the chart recorder broke and sometime in July 2002, Respondent reconfigured Press #34 by removing the flame oxidizer and reducing the emissions from Press #34 to the Facility's larger existing afterburner. During this time, the afterburner was not equipped with the required recording device.

**ANSWER:** Lehigh admits that, for a time, the chart recorder on press #34 was inoperable, a fact not promptly known by Lehigh; further answering, Lehigh states that, after learning that the chart recorder was inoperable, it attempted to repair or replace the chart recorder, but was unable to obtain parts, given the age of the afterburner; further answering, Lehigh admits that it reconfigured press #34 by reducing the emissions to the facility's larger existing afterburner, in August and September, 2002; further answering, Lehigh states that the emissions of volatile organic materials from press #34 never failed to meet the 90% destruction requirement; Lehigh denies the remaining allegations of paragraph 26.

**ALLEGATION NO. 27:** From June 1997 until the press was reconfigured in July 2002, Respondent did not collect and record monitoring data for Press #34.

**ANSWER:** Lehigh admits the allegations of paragraph 27.

**ALLEGATION NO. 28:** By failing to install, calibrate, operate, maintain, collect and record data on press #34, Respondent violated Sections 9(b) and 39.5(6)(a) of the Act, 415 ILCS 5/9(b) and 39.5(6)(a) (2002), 35 Ill. Adm. Code 218.410(c)(2), 218.411(b)(3) and Condition 7.1.9(c)(i) of CAAPP operating permit No. 95100080 and Condition 1.1.9(b)(i) of construction permit No. 01040039.

**ANSWER:** Lehigh denies the allegations of paragraph 28.

WHEREFORE, defendant, Lehigh Press, Inc. prays for judgment in its favor and against plaintiff, and such other relief as the Pollution Control Board deems appropriate.

**COUNT III**  
**FAILURE TO REPORT TO THE ILLINOIS EPA**  
**NONCOMPLIANCE WITH PERMIT CONDITIONS**

1-8. Plaintiff realleges and incorporates by reference herein, paragraphs 1 through 6 and paragraphs 8 and 9 of Count I as paragraphs 1 through 8 of this Count III.

**ANSWER:** Lehigh incorporates by reference its answers to paragraphs 1 through 6 and paragraphs 8 through 9 of Count I as if fully restated in this paragraph.

**ALLEGATION NO. 9:** Condition 5.7.1 of CAAPP permit No. 95100080 issued to Lehigh provides as follows:

The Permittee shall promptly notify the Illinois EPA, Compliance Section of noncompliance with the permit requirements as follows, pursuant to Section 39.5(7)(f)(ii) of the Act. Reports shall describe the probable cause of such deviations, and any corrective actions or preventive measures taken.

**ANSWER:** Lehigh admits that paragraph 9 accurately quotes from the section of the CAAPP permit No. 95100080 cited therein.

**ALLEGATION NO. 10:** From February 24, 1999, the date the CAAPP permit was issued, until July 2002, when Lehigh reconfigured Press #34 by removing the flame oxidizer and reducing the emissions from Press #34 to the Facility's larger existing afterburner, Respondent did not operate Press #34 in compliance with the terms and conditions of its CAAPP permit No. 95100080 which requires Respondent to maintain a continuous temperature recorder and data monitoring equipment.

**ANSWER:** Lehigh admits that from approximately February 24, 1999 until approximately July, 2002, Lehigh's continuous temperature recorder and data monitoring equipment for Press #34 had become inoperable, a fact which was unknown to Lehigh; further answering, Lehigh states that it complied with its CAAPP permit No. 95100080 in that volatile organic material emissions for Press #34 were reduced by more than 90%.

**ALLEGATION NO. 11:** As required by condition 5.7.1 of CAAPP permit No 95100080, Respondent did not promptly notify the Illinois EPA when it reconfigured Press #34 and also operated the press without the required data monitoring equipment.

**ANSWER:** Lehigh admits that, because it was unaware that the data monitoring equipment associated with Press #34 had become inoperable, it did not promptly notify the Illinois EPA; Lehigh denies the remaining allegations of paragraph 11 and affirmatively states that it filed a minor modification reconfiguration notice for press #34

**ALLEGATION NO. 12:** By failing to comply with condition 5.7.1 of its CAAPP permit No. 95100080, Respondent violated Sections 39.5(6)(a) and 9(b) of the Act, 415 ILCS 5/39.5(6)(a) and 9(b) (2002).

**ANSWER:** Paragraph 12 states a legal conclusion to which no response is required; to the extent a response is required, Lehigh denies the allegations of paragraph 12.

WHEREFORE, defendant, Lehigh Press, Inc. prays for judgment in its favor and against plaintiff, and such other relief as the Pollution Control Board deems appropriate.

**COUNT IV**  
**FAILURE TO SUBMIT COMPLETED SEMI-ANNUAL REPORTS**  
**AND ANNUAL COMPLIANCE CERTIFICATIONS**

1-20. Plaintiff realleges and incorporates by reference herein, paragraphs 1 through 6 and paragraphs 8 through 21 of Count I as paragraphs 1 through 20 of this Count IV.

**ANSWER** Lehigh incorporates by references its answer to paragraphs 1 through 6 and paragraphs 8 through 21 of Count I as if fully restated in this paragraph.

**ALLEGATION NO. 21:** Condition 8.6.1 of CAAPP permit No. 95100080 provides as follows:

A report summarizing required monitoring as specified in the conditions of this permit shall be submitted to the Air Compliance Section of the Illinois EPA every six months as follows [Section 39.5(7)(f) of the Act]:

| <u>Monitoring Period</u> | <u>Report Due Date</u> |
|--------------------------|------------------------|
| January – June           | September 1            |
| July – December          | March 1                |

All instances of deviations from permit requirements must be clearly identified in such reports. All such reports shall be in accordance with Condition 9.9.

**ANSWER:** Lehigh admits that paragraph 21 accurately quotes from the section of the CAAPP permit No. 95100080 cited therein.

**ALLEGATION NO. 22:** Condition 9.8(a) of CAAPP permit No. 95100080 provides as follows:

Pursuant to Section 39.5(7)(p)(v) of the Act, the Permittee shall submit compliance certifications annually or more, frequently as specified in the applicable requirement or by permit condition.

- a. The certification shall include the identification of each term or condition of this permit that is the basis of the certification; the compliance status; whether compliance was continuous or intermittent; the method(s) used for determining the compliance status of the source, both currently and over the reporting period consistent with the conditions of this permit.

**ANSWER:** Lehigh admits that paragraph 22 accurately quotes from the section of the CAAPP permit No. 95100080 cited therein.

**ALLEGATION NO. 23:** Respondent submitted incomplete semi-annual monitoring , reports and annual compliance certifications for calendar years 2000 and 2001.

**ANSWER:** Paragraph 23 states legal conclusions to which no response is required; to the extent a response is required, Lehigh denies the allegations of paragraph 23.



**ALLEGATION NO. 24:** Respondent did not report the instances of deviations from permit requirements for press #34 in the semi-annual reports and annual compliance certifications for calendar years 2000 and 2001.

**ANSWER:** Lehigh denies that it deviated from its permit requirements for press #34, in that it reduced volatile organic material emissions by more than 90%; further answering, Lehigh denies the allegations of paragraph 24.

**ALLEGATION NO. 25:** By failing to submit complete semi-annual reports and compliance certifications for calendar years 2000 and 2001, Respondent violated permit Conditions 8.6.1 and 9.8(a).

**ANSWER:** Paragraph 25 states a legal conclusion to which no response is required; to the extent a response is required, Lehigh denies the allegations of paragraph 25.

**ALLEGATION NO. 26:** By failing to comply with permit conditions 8.6.1 and 9.8(a), Respondent violated Sections 39.5(6)(a) and 9(b) of the Act, 415 ILCS 5/39.5(6)(a) and 9(b) (2002).

**ANSWER:** Paragraph 26 states a legal conclusion to which no response is required; to the extent a response is required, Lehigh denies the allegations of paragraph 26.

WHEREFORE, defendant, Lehigh Press, Inc. prays for judgment in its favor and against plaintiff, and such other relief as the Pollution Control Board deems appropriate.

**COUNT V  
CONDUCTING EMISSION TESTING WITHOUT NOTIFYING  
THE ILLINOIS EPA**

1-8. Complainant realleges and incorporates by reference herein, paragraphs 1 through 7 and 14 of Count I as paragraphs 1 through 8 this Count V.

**ANSWER:** Lehigh incorporates by reference its answers to paragraphs 1 through 7 and 14 of Count I as if fully restated in this paragraph.

**ALLEGATION NO. 9:** Section 9(b) of the Act, 415 ILCS 5/9(b) (2002), provides as follows:

No person shall:

- b. Construct, install, or operate any equipment, facility, vehicle, vessel, or aircraft capable of causing or contributing to air pollution or designed to prevent air pollution, of any type designated by Board regulations, without a permit granted by the Agency, or in violation of any conditions imposed by such permit;

**ANSWER:** Lehigh admits that paragraph 9 accurately quotes from the section of the Act cited therein.

**ALLEGATION NO. 10:** Condition 1.1.7(a) of construction permit No. 01040039 issued to Respondent to construct press #47 provides as follows:

Testing to demonstrate compliance with the requirements of Condition 1.1.3(d) (see also 35 IAC 218.407(a)) shall be conducted by the Permittee within 60 days of initial startup. Such testing shall be conducted at the expense of the Permittee and the Permittee shall notify the Illinois EPA in writing 45 days in advance of conducting such testing to allow the Illinois EPA to review the procedures proposed for emission testing and to be present during such testing.

**ANSWER:** Lehigh admits that paragraph 10 accurately quotes from the construction permit cited therein.

**ALLEGATION NO. 11:** Respondent had an initial startup for press #47 on August 2, 2001.

**ANSWER:** Lehigh denies the allegations of paragraph 11; further answering, Lehigh states that it experienced numerous start-up difficulties with press #47, further complicated by the events of September 11, 2001, and the difficulties experienced in travel arrangements of engineers from the German manufacturer of press #47, such that press #47 did not come on line and become fully operational until late November or early December, 2001.

**ALLEGATION NO. 12:** On February 5, 2002, Respondent conducted emission testing on press #47 to demonstrate compliance with permit conditions.

**ANSWER:** Lehigh admits the allegations of paragraph 12.

**ALLEGATION NO. 13:** Construction permit condition 1.1.7(a) requires Respondent to notify the Illinois EPA in writing 45 days in advance of conducting such testing.

**ANSWER:** Lehigh admits the allegations of paragraph 13.

**ALLEGATION NO. 14:** Respondent did not notify the Illinois EPA 45 days prior to February 5, 2002. Respondent notified the Illinois EPA on February 7, 2002, two days after it had already conducted the emission testing.

**ANSWER:** Lehigh admits the allegations of paragraph 14 (?).

**ALLEGATION NO. 15:** By failing to notify the Illinois EPA 45 days prior to testing, Respondent violated Condition 1.1.7(a) of its construction permit No. 01040039.

**ANSWER:** Paragraph 15 states a legal conclusion to which no response is required; to the extent a response is required, Lehigh denies the allegations of paragraph 15.

**ALLEGATION NO. 16:** By violating its construction permit condition, Respondent also violated Sections 9(b) and 39.5(6) (a) of the Act, 415 ILCS 5/9(b) and 39.5(6) (a) (2002).

**ANSWER:** Paragraph 16 states a legal conclusion to which no response is required; to the extent a response is required, Lehigh denies the allegations of paragraph 16.

WHEREFORE, defendant, Lehigh Press, Inc. prays for judgment in its favor and against plaintiff, and such other relief as the Pollution Control Board deems appropriate.

### **AFFIRMATIVE DEFENSES**

#### **First Affirmative Defense**

The plaintiff's action is barred by the equitable doctrine of waiver or estoppel in that plaintiff failed to timely notify defendant of the purported violations.

#### **Second Affirmative Defense**

Plaintiff's action is barred by the equitable doctrine of laches in that plaintiff failed to timely notify defendant of the purported violations.

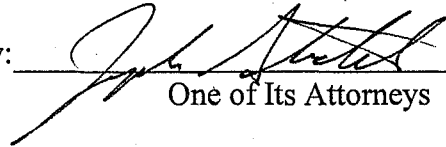
#### **Third Affirmative Defense**

Plaintiff is not entitled to injunctive relief prayed for given that any alleged violations of the pertinent environmental statutes have ceased.

Respectfully submitted,

LEHIGH PRESS, INC.

By:

  
One of Its Attorneys

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Dated: August 21, 2003