

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

JUL 11 2005

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)

Complainant,)

v.)

MGP INGREDIENTS OF
ILLINOIS, INC.,)

Respondent.)

PCB 97-179

(Enforcement- Air)

NOTICE OF FILING

To: Jane E. McBride
Assistant Attorney General
500 South Second Street
Springfield, IL 62706

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
100 West Randolph, Suite 11-500
Chicago, IL 60601

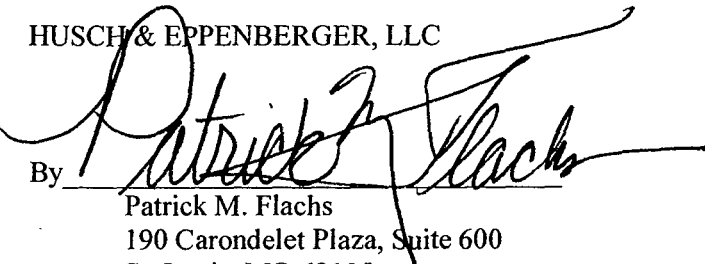
Carol Webb, Hearing Officer
Illinois Pollution Control Board
1021 N. Grand Avenue East – P. O. Box 19274
Springfield, IL 62794-9274

PLEASE TAKE NOTICE that I have today filed the original and four copies with the Office of the Clerk of the Pollution Control Board Respondent MGP Ingredients of Illinois, Inc.'s First Set of Interrogatories, Requests for Production of Documents to Complainant and Request for Admissions, copies of which are herewith served upon you.

Respectfully submitted,

HUSCH & EPPENBERGER, LLC

By


Patrick M. Flachs
190 Carondelet Plaza, Suite 600
St. Louis, MO 63105
(314) 480-1524

THIS FILING IS SUBMITTED ON RECYCLED PAPER

CERTIFICATE OF SERVICE

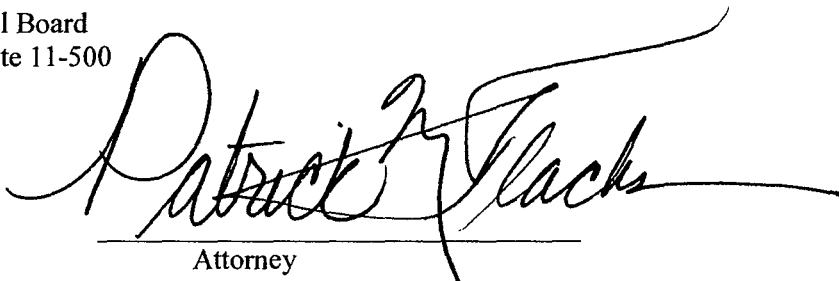
I hereby certify that I did on the 8th day of July, 2005, send a true and accurate copy of RESPONDENT'S FIRST SET OF INTERROGATORIES TO COMPLAINANT, RESPONDENT'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO COMPLAINANT and RESPONDENT'S FIRST REQUEST FOR ADMISSIONS OF FACTS TO COMPLAINANT by first class mail, postage prepaid to Complainant's attorney and Hearing Officer:

Jane E. McBride
Assistant Attorney General
500 South Second Street
Springfield, IL 62706

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

and the originals and four copies of the foregoing instrument by first class mail, postage prepaid to:

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
100 West Randolph, Suite 11-500
Chicago, IL 60601



Attorney

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STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
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Complainant,)	
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v.)	PCB 97-179
)	(Enforcement- Air)
MGP INGREDIENTS OF ILLINOIS, INC.,)	
)	
)	
Respondent.)	

RESPONDENT'S FIRST SET OF INTERROGATORIES TO COMPLAINANT

COMES NOW Respondent MGP Ingredients of Illinois, Inc., ("MGP"), by its attorneys, Husch & Eppenberger, LLC pursuant to Section 101.616 of the Board's Procedural Regulations, Hearing Officer Order dated April 21, 2005 and Illinois Supreme Court Rule 213, requests that Complainant, People of the State of Illinois, answer in writing, under oath, the following interrogatories.

I. INSTRUCTIONS FOR INTERROGATORIES

1. Complainant is required, in answering these interrogatories to furnish all information available to Complainant or its employees, agents, contractors, experts, or consultants, or which is ascertainable by reasonable inquiry whether or not the requested information might be available from another entity.
2. If an interrogatory has subparts, Complainant is required to answer each part separately and in full.
3. If Complainant cannot answer an interrogatory in full, they are required to answer all parts of the interrogatory to the extent possible and specify the reason for its inability to provide additional information.

4. As to each interrogatory, or portion thereof, identify in the answer every oral communication, document or writing which relates to the interrogatory or response, whether or not such identification is specifically requested by the interrogatory.

5. In answering each interrogatory, identify each document, person, communication or meeting, which relates to, corroborates, or in any way forms the basis for the answer given.

6. Pursuant to Illinois Supreme Court Rule 213(3), Complainant is requested to serve upon Respondent corrected, supplemented or augmented answers hereto, documents or other forms of information from whatever source, which arguably tends to show that Complainant's prior answers are, might be, were or might have been in a sense incorrect, incomplete, potentially misleading or less than fully responsive or truthful.

7. Complainant shall supplement its answers and responses as new information and documents become available.

8. If dates are requested, the exact date should be given, if possible. However, if the exact date cannot be determined due to absence or inadequacy of records, the best estimate should be given to the interrogatory and labeled as such.

9. In construing these interrogatories:

- a. the singular shall include the plural and the plural shall include the singular; and
- b. a masculine or feminine pronoun shall not exclude the other gender.

10. If you encounter any ambiguity in construing any interrogatory or any definition or instruction pertaining to any interrogatory, set forth the matter deemed "ambiguous" and the construction chosen or used in responding to the interrogatory.

11. In producing documents in response to an interrogatory (See Illinois Supreme Court Rule 213(e)), you are requested to furnish all documents or things in your actual or constructive possession, custody, control, or known or available to you, regardless of whether such documents or things are possessed directly by you or by your attorneys, agents, employees, representatives or investigators.

12. This discovery is deemed continuing, necessitating supplemental answers by Complainant, or anyone acting on its behalf, when or if they obtain additional information, which supplements or alters the answers now provided.

II. CLAIMS OF PRIVILEGE

1. With respect to any interrogatory which Complainant refuses to answer on a claim of privilege, provide a statement signed by an attorney representing Complainant, setting forth each such assertion of privilege. The statement should include:

- a. the name and job title of every person involved in the conversation or communication;
- b. the nature of the information disclosed;
- c. all facts relied upon in support of the claim of privilege;
- d. all documents related to the claim of privilege;
- e. all events, transactions or occurrences related to the claim of privilege; and
- f. the statute, rule or decision which is claimed to give rise to the privilege or the reason for its unavailability.

2. If the objection relates to only part of an interrogatory, the balance of the interrogatory should be answered in full.

3. If you claim the attorney-client privilege or any other privilege is applicable to any document, with respect to that document:

- a. state the date of the document;
- b. identify each and every author of the document;
- c. identify each and every other person who prepared or participated in the preparation of the document;
- d. identify each and every person who received the document;
- e. state the present location of the document and all copies thereof;

- f. identify each and every person having custody or control of the document and all copies thereof; and
- g. provide sufficient further information concerning the document to explain the claim or privilege and to permit adjudication of the property of that claim.

III. DEFINITIONS

1. "Complainant" shall mean PEOPLE OF THE STATE OF ILLINOIS and the ATTORNEY GENERAL OF THE STATE OF ILLINOIS, and any of Complainant's employees, agents, representatives, successors or assigns, or any other person acting or believed by Complainant to have acted on their behalf.

2. "Document" shall be construed in its customary broad sense and shall include, but is not limited to, the original and non-identical copy, whether different from the original because of notes made on said copy or otherwise, or any agreement, bank record or statement; book of account, including any ledger, sub-ledger, journal or sub-journal; brochure; calendar; chart; check; circular; communication (intra- or inter-company or governmental entity or agency or agencies); contract; copy; correspondence; diary; draft of any document; graph; index; instruction; instruction manual or sheet; invoice; job requisition; letter; license; manifest; memorandum; minutes; newspaper or other clipping; note; notebook; opinion; pamphlet; paper; periodical or other publication; photograph; print; receipt; record; recording report; statement; study; summary including any memorandum, minutes, note, record or summary of any (a) telephone, videophone or intercom conversation or message; (b) personal conversation or interview; or (c) meeting or conference; telegram; telephone log; travel or expense record; voucher; worksheet or working paper; writing; any other handwritten, printed, reproduced, recorded, typewritten, or otherwise produced graphic material from which the information inquired of may be obtained, or any other documentary material of any nature, including electronic mail, in the possession, custody or control of Complainant.

3. "Communication" shall mean, without limitation, any and all forms of transferring information, including discussions, conversations, meetings, conferences, interviews, negotiations, agreements, understandings, inquiries, correspondence, documents, or other transfers of information whether written or oral or by any other means, and includes any document which abstracts, digests, transcribes or records any communication.

4. "Facility" and/or "Site" shall mean the property located at South Front Street and Distillery in Pekin, Tazewell County, Illinois, as reference in paragraph 5, Count I of the Complaint.

5. "Person" shall include, but is not limited to, any natural person; business or corporation, whether for profit or not; firm, partnership, or other non-corporate business organization; charitable, religious, education, governmental, or other non-profit institution, foundation, body, or other organization; or employee, agent or representative of any of the foregoing.

6. "Describe" when used with respect to a communication, means to provide the following information:

- a. the date of the communication;
- b. the type of communication (telephone, electronic mail, facsimile, letter, etc.);
- c. the identity of all individuals involved in the communication;
- d. the identity of all individuals who witnessed the communication; and
- e. the subject matter of the communication.
- f. a description of any documents generated relating to these communications.

7. "Identify" when used with respect to a person, means that you are to state the full name, present residence and business addresses, present residence and business telephone numbers, present and last-known position and business of such person and, if different, the business and position of the person at the time to which the interrogatory has reference.

8. "Identify" when used with respect to a document, means:

- a. to specify the nature of the document (For example a letter or memorandum);
 - b. to state the date, if any, appearing on the document or, if none, the date on which the document was prepared and/or received; and
 - c. to describe the substance of each document for which no privilege is claimed, or to specify the nature and extent of any claimed privilege.
 - d. If the document is not in your possession, identify the person who has actual or constructive possession or control of the document.
9. "Or" shall mean and/or wherever appropriate.
10. "Related to" or "relating to" or "in relation to" shall mean anything which directly or indirectly, concerns, consists of, pertains to, reflects, evidences, describes, sets forth, constitutes, contains, shows, underlies, supports, refers to in any way, is or was used in the preparation of, is appended to, or tends to prove or disprove.
11. "Relied upon" shall mean being or having been depended upon or referred to or being or having been arguably appropriate for such reliance.
12. "Constructive Possession" means documents not in actual possession, but to which you have power to inspect, a right to control, review or otherwise access.
13. "Knowledge" means first-hand information and/or information derived from any other source, including hearsay.
14. "IEPA" means the Illinois Environmental Protection Agency.
15. "Board" shall mean the Illinois Pollution Control Board.
16. "Current" or "Present" means the filing date of these Interrogatories.
17. All terms not specifically defined herein shall have their logical ordinary meaning, unless such terms are defined in the Act or the regulations promulgated thereunder, in which case the appropriate or regulatory definitions will apply.

IV. INTERROGATORIES

1. Please identify:

- a. the individual(s) answering these interrogatories on behalf of the Complainant, including his or her relationship to Complainant, and how long he or she has been associated with Complainant.
- b. Each person who provided information or who otherwise consulted, participated or assisted in connection with providing answers to these interrogatories, the nature of any such consultation or assistance, whether the information was based on personal knowledge, and if not on the basis of personal knowledge, on what basis it was provided.
- c. For each person identified in the proceeding section 1(b), specify the particular interrogatories to which each such person contributed.

ANSWER:

2. Pursuant to Illinois Supreme Court Rule 213(f), with respect to any hearing witnesses, please state the following:

- a. the name, address and employer of each witness;
- b. a summary of the relevant facts within the knowledge of, or which said witnesses will testify to; and
- c. a listing of any documents or photographs, which any such witness has relied upon, will use or which may be introduced into evidence in connection with the testimony of said witness.

ANSWER:

3. Furnish the identity and addresses of all expert witnesses who will testify at hearing for Complainant, together with the subject matter on which each expert witness is expected to testify; the conclusions and opinions of each expert witness and the basis therefore; and the qualifications of each expert witness and a copy of all reports of such witnesses.

ANSWER:

4. With respect to any witness(es) interviewed by Complainant who Complainant does not intend to call to testify at hearing, state the name and address of any such witness, state whether a transcript of any interview with said witness was prepared, or a memorandum prepared in connection with any such interview, and provide a summary of the facts and opinions relevant to this proceeding which were secured from said witness.

ANSWER:

5. Pursuant to Illinois Supreme Court Rule 213(g), identify any and all opinion witnesses that Complainant has interviewed and/or expects to call at hearing. Specify:

- a. The subject matter on which the opinion witness is expected to testify as well as the conclusions, opinion and/or expected testimony of any such witness;
- b. The qualifications, including, but not limited to, the opinion witness' educational background, practical experience in the area he or she is expected to testify in, any articles and papers he or she has written, any and all seminars and post-graduate training he has received, his experience, if any, as a teacher or lecturer and his or her professional appointments and associations;
- c. The identity of each document examined, considered, or relied upon by him or her to form his or her opinions;
- d. All proceedings in which each opinion witness has previously testified as an opinion witness; and
- e. Any and all reports of the opinion witness.

ANSWER:

6. Furnish the identity and addresses of all persons that communicated with Complainant regarding the facts alleged in Complainant's Complaint; and identify all persons known by you to have knowledge of the facts alleged in the Complaint or in the Answers to these Interrogatories.

ANSWER:

7. Identify all dates on which the owner or operator of the MGP facility was required to submit an application or request for, obtain or have in its possession a permit, approval or other governmental authorization to construct or install any structure, process, equipment, operation or activity at the MGP facility and for each such date, identify all such required permits, approvals, or other governmental authorizations, for all relevant time periods.

ANSWER:

8. With respect to the allegations contained in Paragraph 20 of the Complaint that the MGP facility is a "major stationary source," please identify all equipment, processes, operations and fugitive emissions, which alone or in combination, emitted or had the potential to emit more than 25 tons of particulate matter per year for the time period after January 1, 1989 to the present time. For each piece of equipment, process or operation identified, provide the following:

- a. All information, including emission factors, emission tests, and any calculations or formulas, relied upon in determining the actual and potential emissions of particulate matter for each piece of equipment, each process, or each operation;
- b. All rules, regulations, policies or guidance relied upon in determining the potential to emit;
- c. All persons in the employ or retained by Complainant who determined or assisted in the determination of the emissions or potential to emit for the equipment, process or operation;

- d. The maximum capacity of each piece of equipment, process or operation to emit particulate matter under its physical and operational design;
- e. Any physical or operational limitations on the maximum capacity to emit particulate matter, including production limitations and air pollution control equipment, for each piece of equipment.
- f. For all fugitive emissions identified, provide the following:
 - i. All information, including emission factors, tests, calculations, or guidance relied upon in determining the actual and potential emissions of particulate matter for each fugitive source;
 - ii. All persons in the employ or retained by Complainant who determined or assisted in the determination of the emissions or potential to emit from fugitive particulate matter sources.

ANSWER:

9. With respect to the allegations contained in the Complaint and the subject matter thereof, please state or identify the following:
- a. Identify all information, including emission factors, emission tests, and any calculations or formulas, relied upon in determining that a “major modification” occurred at any time at the MGP facility;
 - b. Identify the date such “major modification” occurred at the MGP facility, and as of that date, what Complainant maintains would have been the “best available control technology” applicable to such “major modification;”
 - c. Identify each person on behalf of Complainant with factual information concerning the “major modification” or known to have been involved in the assessment and/or determination that a “major modification” occurred at any time at the MGP facility.

- d. Any physical or operational limitation on the maximum capacity to emit particulate matter from such "major modification."

ANSWER:

10. Describe any and all communications between IEPA and August Mack Environmental, Inc., ("August Mack") and/or any other consultants relating to air permit or air emission issues at MGP. Dates of relevant phone conversations include, but are not limited to, 8/13/96, 8/16/96, 8/28/96, 9/4/96, 9/16/96, 9/17/96, 9/20/96, 9/24/96, 10/15/96, 11/1/96, 11/14/96, 12/11/96, 1/28/97, 1/30/97, 3/19/97, 3/25/96, 3/27/97, 4/9/97, and 4/23/97.

ANSWER:

11. Describe any and all communications between IEPA and MGP relating to air permit or air emission issues at MGP. Dates of relevant phone conversations include, but are not limited to, 8/13/96, 8/16/96, 8/28/96, 9/4/96, 9/16/96, 9/17/96, 9/20/96, 9/24/96, 10/15/96, 11/1/96, 11/14/96, 12/11/96, 1/28/97, 1/30/97, 3/19/97, 3/25/96, 3/27/97, 4/9/97, and 4/23/97.

ANSWER:

12. Describe any and all internal IEPA communications relating to air permit or air emission issues at MGP. Dates of relevant phone conversations include, but are not limited to, 8/13/96, 8/16/96, 8/28/96, 9/4/96, 9/16/96, 9/17/96, 9/20/96, 9/24/96, 10/15/96, 11/1/96, 11/14/96, 12/11/96, 1/28/97, 1/30/97, 3/19/97, 3/25/96, 3/27/97, 4/9/97, and 4/23/97

ANSWER:

13. Describe any and all communications between IEPA and the United States Environmental Protection Agency relating to air permit or air emission issues at MGP. Dates of relevant phone conversations include, but are not limited to, 8/13/96, 8/16/96, 8/28/96, 9/4/96,

9/16/96, 9/17/96, 9/20/96, 9/24/96, 10/15/96, 11/1/96, 11/14/96, 12/11/96, 1/28/97, 1/30/97, 3/19/97, 3/25/96, 3/27/97, 4/9/97, and 4/23/97

ANSWER:

14. Describe any and all communications between IEPA and August Mack, any other consultants, MGP and/or the United States Environmental Protection Agency ("USEPA") and internal IEPA communication relating to air permit or air emission issues at MGP from 1992 to the present.

ANSWER:

15. Describe any and all communications between IEPA and August Mack, any other consultants, MGP and/or the USEPA and internal IEPA communication relating to air permit modifications or air permit application modifications at MGP.

ANSWER:

16. Itemize the penalties which Complainant seeks to recover for each violation asserted in the Complaint; identify the manner or means by which Complainant determined the penalty amounts to be sought (including but not limited to, the manner in which any statutory criteria, policy or guidance was employed in determining the penalty amounts); identify the relevant facts considered in making the penalty determinations and in employing such statutory criteria, policy or guidance; and identify and explain the manner or method employed in attributing any economic benefit accruing to Respondent by reason of the violations asserted.

ANSWER:

17. Identify and describe any and all internal IEPA communications, IEPA communications with MGP and/or communications between IEPA and any third-party relating to a BACT determination for the MGP facility since January 1, 1990.

ANSWER:

18. Describe the analysis conducted and methodology used by IEPA to determine the BACT for emissions from feed dryers at the MGP facility, including but not limited to, emission limitations and reductions.

ANSWER:

19. Identify and describe the technically feasible and economically reasonable technology available to control the particulate matter emissions at the MGP facility as described in the Complaint.

ANSWER:

20. Describe any and all communications related to IEPA's consideration of economic and technological feasibility as they relate to the alleged violations described in the Complaint.

ANSWER:

21. Describe any and all communications related to IEPA's consideration of potential energy, environmental and economic impacts in determining the level of emission control that the MGP facility could achieve pursuant to 42 U.S.C. § 7479(3).

ANSWER:

22. Describe any and all communications related to IEPA's use of "top down" analysis to select the BACT for the MGP facility.

ANSWER:

23. Describe any and all communications relied upon in preparation of Donald E. Sutton's 10/9/97 and 7/9/97 correspondences to MGP.

ANSWER:

24. Describe any and all communications relating to emission limits established for MGP, including, but not limited to, construction permits 82110006, 93020061 and 93080045 and emission limits in any and all construction and/or operating permits relating to the MGP facility.

ANSWER:

25. Describe any and all communications relating to the permitting, operation and shutdown of the fluidized bed combustion boiler or any dryers at the MGP facility from January 1, 1987 to present.

ANSWER:

26. Describe any and all communications among IEPA personnel and/or MGP personnel relating to the start of construction, start of operations, and shutdown of boilers, dryers and other emission sources at the MGP facility.

ANSWER:

27. Identify any and all data relating to air emission tests conducted at the MGP site, emission data associated with the MGP facility, and/or air modeling related to the MGP facility.

ANSWER:

28. Describe any and all communications within IEPA and/or between IEPA and MGP, USEPA, August Mack or any third party regarding particulate air emission modeling related to the MGP facility.

ANSWER:

29. Identify the "look back" period used by IEPA to determine emission limits for the project which is the subject of the Complaint for the MGP facility, including but not limited to the analysis employed and methodology used to determine the appropriate "look back" period.

ANSWER:

30. Identify any and all documents that relate to the inspection of air emissions at the MGP facility.

ANSWER:

31. Identify any and all US Clean Air Act or Illinois Environmental Protection Act exemptions that were considered by IEPA related to particulate matter emissions at the MGP facility and the base or bases for the denial of such exemptions.

ANSWER:

32. Describe any and all communications relating to the determination that the MGP facility was a major stationary source for particulate matter in 1992.

ANSWER:

33. Describe any and all communications relating to IEPA determinations that the MGP facility is a major stationary source, a change in the MPG facility was a major modification or that the MGP facility experienced a significant net emission increase for any pollutant.

ANSWER:

34. Describe any and all communications related to MGP construction and operating permit emission applications, and/or proposed and issued permits.

ANSWER:

35. Describe any and all communications relating to any PSD permitting for the MGP facility including, but not limited to, air emission evaluations and effects on attainment and/or nonattainment classification of the vicinity surrounding the MGP site.

ANSWER:

36. Describe any and all communications related to IEPA's contention that all agency modeling of particulates at the MGP facility and its environs must be complete before IEPA would consider MGP's proposal to install a regenerative thermal oxidizer.

ANSWER:

37. Describe any and all communications related to any penalty calculations or proposed penalties concerning a resolution of the allegations in the Complaint including, but not limited to, calculations, supporting documents, policies and procedures used in the application of calculations, any assumptions used in the calculations and any internal IEPA communications or communications with USEPA related to MGP penalties or penalty calculations.

ANSWER:

38. Describe IEPA's analysis of the monetary losses suffered by MGP as applied to the following:

- a. The penalty of \$1,062,580;

- b. The BACT determination; and
- c. The determination of economic reasonable technology.

ANSWER:

39. Describe any communications related to IEPA's 1999 decision to not assess an economic benefit penalty beyond that date.

ANSWER:

40. Identify and describe IEPA's analysis of MGP's good faith efforts to control particulate matter emissions including but not limited to, IEPA's analysis of MGP's attempts to hold the dryer manufacturer's supplier accountable for MGP's expensive corrective actions when the dryer and scrubber failed to properly control particulate matter emissions.

ANSWER:

41. Describe any and all communications related to IEPA's denial of a construction permit application for a wet electrostatic precipitator in and around 1997.

ANSWER:

42. Describe any and all communications with Mr. Charlie Merrill or Mr. Brian Cahill relating to the determination that no penalty or fines would be assessed if MGP cooperated in completing the air modeling.

ANSWER:

43. Describe how the shutdown of the MGP fluidized bed coal boiler in 1994 factored into IEPA's determination that MGP was a "major stationary source."

ANSWER:

44. Identify and describe IEPA's analysis of the severity of the particulate matter emissions, plant location and economic loss due to unemployment, as well as, the economic impact of a shut down of the MGP facility.

ANSWER:

45. Identify the date by which IEPA completed the air emission modeling necessary to fully analyze an air emissions construction permit application for feed dryer pollution control equipment submitted by MGP.

ANSWER:

46. Identify the date when IEPA communicated to MGP the completed the air emission modeling necessary to fully analyze an air emissions construction permit application for feed dryer pollution control equipment submitted by MGP.

ANSWER:

Respectfully submitted,

HUSCH & EPPENBERGER, LLC

By: 

One of its attorneys

Husch & Eppenberger, LLC
190 Carondelet Plaza, Suite 600
St. Louis, Missouri 63105
(314) 480-1500

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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JUL 11 2005

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)	
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MGP INGREDIENTS OF ILLINOIS, INC.,)	
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RESPONDENT'S FIRST REQUEST FOR PRODUCTION
OF DOCUMENTS TO COMPLAINANT

COMES NOW Respondent MGP Ingredients of Illinois, Inc., ("MGP"), by its attorneys, Husch & Eppenger, LLC pursuant to Section 101.616 of the Board's Procedural Regulations, Hearing Officer Order dated April 21, 2005 and Illinois Supreme Court Rule 213, requests that Complainant, People of the State of Illinois, produce, under oath, the documents specified in the following request.

I. INSTRUCTIONS

1. Complainant is required, in answering this production request to furnish all information available to Complainant or its employees, agents, contractors, experts, or consultants, or which is ascertainable by reasonable inquiry whether or not the requested information might be available from another entity.
2. If a production request has subparts, Complainant is required to answer each part separately and in full.
3. If Complainant cannot answer a production request in full, they are required to answer all parts of the request to the extent possible and specify the reason for its inability to provide additional information.

4. As to each production request, or portion thereof, identify in the answer every oral communication, document or writing which relates to the production request or response, whether or not such identification is specifically requested by the production request.

5. In answering each production request, identify each document, person, communication or meeting, which relates to, corroborates, or in any way forms the basis for the answer given.

6. Complainant shall make the requested documents available for inspection and copying at Husch & Eppenger, 190 Carondelet Plaza, Suite 600, St. Louis, Missouri 63105.

7. Pursuant to Illinois Supreme Court Rule 213(3), Complainant is requested to serve upon Respondent corrected, supplemented or augmented answers hereto, documents or other forms of information from whatever source, which arguably tends to show that Complainant's prior answers are, might be, were or might have been in a sense incorrect, incomplete, potentially misleading or less than fully responsive or truthful.

8. In construing this production request:

- a. the singular shall include the plural and the plural shall include the singular; and
- b. a masculine or feminine pronoun shall not exclude the other gender.

9. If you encounter any ambiguity in construing any production request or any definition or instruction pertaining to any production request, set forth the matter deemed "ambiguous" and the construction chosen or used in responding to the request.

10. In producing documents in response to a production request (See Illinois Supreme Court Rule 213(e)), you are requested to furnish all documents or things in your actual or constructive possession, custody, control, or known or available to you, regardless of whether such documents or things are possessed directly by you or by your attorneys, agents, employees, representatives or investigators.

11. If any requested document is not or cannot be produced in full, produce it to the extent possible, indicating with particularity what documents or portion of any such documents is not or cannot be produced and reason therefore.

12. In producing documents, you are requested to produce the original of each document requested together with all non-identical copies and drafts of that document.

13. All documents should be produced in the same order as they are kept or maintained by you.

14. All documents should be produced in a file, folder, envelope or other container in which the documents are kept or maintained by you. If for any reason the container cannot be produced, please produce copies of all labels or other identifying markings.

15. Documents attached to each other should not be separated.

16. Documents not otherwise responsive to this request shall be produced if such documents refer to, relate to, or explain the documents called for by this request and constitute routing slips, transmittal memoranda or letters, comments, evaluations, or similar documents.

17. Each document request should be construed and responded to independently from each other request. The scope of any requests should not be construed to limit or narrow the scope of any other request.

18. This discovery is deemed continuing, necessitating supplemental answers by Complainant, or anyone acting on its behalf, when or if they obtain additional information, which supplements or alters the answers now provided.

II. CLAIMS OF PRIVILEGE

1. With respect to any production request, which Complainant refuses to answer on a claim of privilege, provide a statement signed by an attorney representing Complainant, setting forth each such assertion of privilege. The statement should include:

- a. the name and job title of every person involved in the conversation or communication;

- b. the nature of the information disclosed;
- c. all facts relied upon in support of the claim of privilege;
- d. all documents related to the claim of privilege;
- e. all events, transactions or occurrences related to the claim of privilege; and
- f. the statute, rule or decision which is claimed to give rise to the privilege or the reason for its unavailability.

2. If the objection relates to only part of a production request, the balance of the production request should be answered in full.

3. If you claim the attorney-client privilege or any other privilege is applicable to any document, with respect to that document:

- a. state the date of the document;
- b. identify each and every author of the document;
- c. identify each and every other person who prepared or participated in the preparation of the document;
- d. identify each and every person who received the document;
- e. state the present location of the document and all copies thereof;
- f. identify each and every person having custody or control of the document and all copies thereof; and
- g. provide sufficient further information concerning the document to explain the claim or privilege and to permit adjudication of the property of that claim.

III. DEFINITIONS

1. "Complainant" shall mean PEOPLE OF THE STATE OF ILLINOIS and the ATTORNEY GENERAL OF THE STATE OF ILLINOIS, and any of Complainant's employees, agents, representatives, successors or assigns, or any other person acting or believed by Complainant to have acted on their behalf.

2. "Document" shall be construed in its customary broad sense and shall include, but is not limited to, the original and non-identical copy, whether different from the original because of notes made on said copy or otherwise, or any agreement, bank record or statement; book of account, including any ledger, sub-ledger, journal or sub-journal; brochure; calendar; chart; check; circular; communication (intra- or inter-company or governmental entity or agency or agencies); contract; copy; correspondence; diary; draft of any document; graph; index; instruction; instruction manual or sheet; invoice; job requisition; letter; license; manifest; memorandum; minutes; newspaper or other clipping; note; notebook; opinion; pamphlet; paper; periodical or other publication; photograph; print; receipt; record; recording report; statement; study; summary including any memorandum, minutes, note, record or summary of any (a) telephone, videophone or intercom conversation or message; (b) personal conversation or interview; or (c) meeting or conference; telegram; telephone log; travel or expense record; voucher; worksheet or working paper; writing; any other handwritten, printed, reproduced, recorded, typewritten, or otherwise produced graphic material from which the information inquired of may be obtained, or any other documentary material of any nature including electronic mail, in the possession, custody or control of Complainant.

3. "Communication" shall mean, without limitation, any and all forms of transferring information, including discussions, conversations, meetings, conferences, interviews, negotiations, agreements, understandings, inquiries, correspondence, documents, or other transfers of information whether written or oral or by any other means, and includes any document which abstracts, digests, transcribes or records any communication.

4. "Facility" and/or "Site" shall mean the property located at South Front Street and Distillery in Pekin, Tazewell County, Illinois, as reference in paragraph 5, Count I of the Complaint.

5. "Person" shall include, but is not limited to, any natural person; business or corporation, whether for profit or not; firm, partnership, or other non-corporate business

organization; charitable, religious, education, governmental, or other non-profit institution, foundation, body, or other organization; or employee, agent or representative of any of the foregoing.

6. "Identify" when used with respect to a person, means that you are to state the full name, present residence and business addresses, present residence and business telephone numbers, present and last-known position and business of such person and, if different, the business and position of the person at the time to which the interrogatory has reference.

7. "Identify" when used with respect to a document, means:

- a. to specify the nature of the document (For example a letter or memorandum);
- b. to state the date, if any, appearing on the document or, if none, the date on which the document was prepared and/or received; and
- c. to describe the substance of each document for which no privilege is claimed, or to specify the nature and extent of any claimed privilege.
- d. If the document is not in your possession, identify the person who has actual or constructive possession or control of the document.

8. "Or" shall mean and/or wherever appropriate.

9. "Related to" or "relating to" or "in relation to" shall mean anything which directly or indirectly, concerns, consists of, pertains to, reflects, evidences, describes, sets forth, constitutes, contains, shows, underlies, supports, refers to in any way, is or was used in the preparation of, is appended to, or tends to prove or disprove.

10. "Relied upon" shall mean being or having been depended upon or referred to or being or having been arguably appropriate for such reliance.

11. "Constructive Possession" means documents not in actual possession, but to which you have power to inspect, a right to control, review or otherwise access.

12. "Knowledge" means first-hand information and/or information derived from any other source, including hearsay.

13. "IEPA" means the Illinois Environmental Protection Agency.

14. "Board" shall mean the Illinois Pollution Control Board.

15. "Current" or "Present" means the filing date of these Interrogatories.

16. All terms not specifically defined herein shall have their logical ordinary meaning, unless such terms are defined in the Act or the regulations promulgated thereunder, in which case the appropriate or regulatory definitions will apply.

IV. REQUESTS FOR PRODUCTION

1. Produce all documents identified, referred to, or used to answer any interrogatory to you from MGP.

2. Produce any and all documents related to MGP's alleged violations of the Clean Air Act and/or the Illinois Environmental Protection Act and any and all documents related to or relied upon in filing the Complaint.

3. Produce all documents that you provided or that were provided on your behalf to any expert witness (retained or non-retained) whether or not you intend to call that expert witness at any hearing in this matter.

4. Produce all documents including, without limitation, resumes, reports, notes and communications prepared or reviewed by any expert witness (retained or non-retained) whether or not you intend to call that expert witness at any hearing in this matter.

5. Produce all documents you received from any expert witness (retained or non-retained) whether or not you intend to call that expert witness at any hearing in this matter.

6. Produce all documents and agreements relating to any consultant's work relating to air permit issues at the MGP facility.

7. Produce any and all documents relating to physical inspections of the MGP facility by any representative of the Complainant, the IEPA or the USEPA at any time and whether or not such inspections were related to the violations alleged in the Complaint.

8. Produce any and all documents relating to physical inspections of the MGP facility by any representative of the Complainant, the IEPA or the USEPA and investigations of the MGP facility by any representative of the Complainant, the IEPA or the USEPA with respect to the violations alleged in the Complaint.

9. Produce any and all documents relating to the determination that the MGP facility was a major stationary source for particulate matter in 1989.

10. Produce any and all documents relating to major stationary source and/or major modification determinations at the MGP facility.

11. Produce any and all documents relating to determinations at the MGP facility of significant emission increases for any pollutants.

12. Produce any documents related to the "look back" period used by IEPA to determine emission limits for the project which is the subject of the Complaint.

13. Produce any and all documents relating to communications between IEPA and: (1) August Mack Environmental, Inc., ("August Mack"); (2) any other consultants; (3) MGP; (4) USEPA; and/or (5) internal IEPA conversations relating to air permit or air emission issues at MGP.

14. Produce any and all documents related to the IEPA's denial of US Clean Air Act or Illinois Environmental Protection Act exemptions to the MGP facility.

15. Produce all correspondence and documents related to the December 1999 meeting involving several parties regarding the MGP facility.

16. Produce a copy of the 3/6/1990 correspondence from William C. Eddins (IEPA) to USEPA relating to PSD issues discussed with Mr. Roger Pfaff.

17. Produce any and all correspondence between IEPA and USEPA relating to air inspection or air permit issues at the MGP facility.

18. Produce any and all documents related to or relied upon in the determination of the proposed penalty of \$1,062,580 and the application of the BEN Model, including but not limited to, calculations, formulas, assumptions, and governmental policy or guidance documents.

19. Produce all documents related to IEPA's analysis of the monetary losses suffered by MGP as those losses relate to (1) the penalty of \$1,062,580; (2) the BACT determination; and (3) the economic reasonable technology determination.

20. Produce all documents related to IEPA's 1999 decision to not assess an economic benefit penalty beyond that date.

21. Produce any and all IEPA documents related to or relied upon in any BACT determination for emissions from feed dryers at the MGP facility since January 1, 1990.

22. Produce any and all documents related to what IEPA considers "compliance" with BACT regulations.

23. Produce all documents related to "technically feasible" and "economically reasonable" technology available to control emissions as described in the Complaint.

24. Produce any and all documents related to IEPA's consideration of potential energy, environmental and economic impacts in determining the level of emission control that the MGP facility could achieve pursuant to 42 U.S.C. § 7479(3).

25. Produce all documents related to IEPA's use of "top down" analysis to select the BACT for the MGP facility.

26. Produce all documents related to IEPA's denial of MGP's proposal to install a regenerative thermal oxidizer.

27. Produce Donald E. Sutton's 10/9/97 and 7/9/97 correspondence to MGP and any documents related to such correspondences.

28. Produce any and all documents relating to emission limits established for the MGP facility, including, but not limited to, construction permits 82110006, 93020061 and

93080045 and emission limits in any and all construction and/or operating permits relating to the MGP facility.

29. Produce all documents relating to the permitting, operation and/or shutdown of the fluidized bed combustion boiler or any dryers at the MGP facility from January 1, 1987 to present.

30. Produce any and all documents, formulas, calculations and data relating to air emission tests conducted at the MGP site and/or air modeling related to the MGP facility.

31. Produce any and all documents relating to any PSD permitting for the MGP facility including, but not limited to, air emission evaluations and effects on attainment and/or nonattainment classification of the vicinity surrounding the MGP site.

32. Produce all documents related to and relied upon by you in analyzing MGP's good faith efforts to control particulate matter emissions including but not limited to, IEPA's analysis of MGP's attempts to hold the dryer manufacturer's supplier accountable for MGP's expensive corrective actions when the dryer and scrubber failed to properly control particulate matter emissions.

33. Produce all documents related to and relied upon by you in analyzing MGP's repeated modifications and installations of emission control devices that failed to reduce particulate matter emissions.

34. Produce all documents related to IEPA's analysis of the severity of the particulate matter emissions, plant location and economic loss due to unemployment, as well as, the economic impact of a shut down of the MGP facility.

35. Produce all documents related to IEPA's denial of a construction permit for a wet electrostatic precipitator at the MGP facility in 1997.

36. Produce all documents, correspondence and notes related to Mr. Dennis Brown's meetings with MGP representatives, particularly between 1997 and 2000.

37. Produce all documents, notes, correspondence and reports relating to Mr. Robert Fuhrman's May 18, 2004 report on economic benefits obtained by MGP.

38. Produce any and all documents and correspondence related to discussions with Mr. Charlie Merrill or Mr. Brian Cahill regarding the determination that no penalty or fines would be assessed if MGP cooperated in completing the air modeling.

39. Produce all documents, notes or minutes related to the March 6, 1998 meeting in Springfield, Illinois between IEPA and MGP.

Respectfully submitted,

HUSCH & EPPENBERGER, LLC

By: 

One of its attorneys

Husch & Eppenberger, LLC
190 Carondelet Plaza, Suite 600
St. Louis, Missouri 63105
(314) 480-1500

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE
JUL 11 2005
STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.) PCB 97-179
) (Enforcement- Air)
MGP INGREDIENTS OF ILLINOIS, INC.,)
)
)
 Respondent.)

RESPONDENT'S FIRST REQUEST FOR ADMISSIONS
OF FACTS TO COMPLAINANT

COMES NOW Respondent MGP Ingredients of Illinois, Inc., ("MGP"), by its attorneys, Husch & Eppenger, LLC, pursuant to Section 101.616 of the Board's Procedural Regulations, Hearing Officer Order dated April 21, 2005 and Illinois Supreme Court Rule 216, requests that Complainant, People of the State of Illinois, admit the truth in writing, under oath, of the following facts.

I. INSTRUCTIONS

1. With respect to any requested admission which Complainant refuses to answer on a claim of privilege, provide a statement signed by an attorney representing Complainant, setting forth each such assertion of privilege. The statement should include:

- (a) the name and job title of every person involved in the conversation or communication;
 - (b) the nature of the information disclosed;
 - (c) all facts relied upon in support of the claim of privilege;
 - (d) all documents related to the claim of privilege;
 - (e) all events, transactions or occurrences related to the claim of privilege;
- and

- (f) the statute, rule or decision which is claimed to give rise to the privilege or the reason for its unavailability.

2. For all requested admissions which Complainant denies or which Complainant can neither admit nor deny, pursuant to Illinois Supreme Court Rule 216(c), Complainant is required to provide Respondent with a sworn statement denying specifically the matters of which admission is requested or setting forth in detail the reasons why Complainant cannot truthfully admit or deny those matters.

II. DEFINITIONS

1. "Complainant" shall mean PEOPLE OF THE STATE OF ILLINOIS and the ATTORNEY GENERAL OF THE STATE OF ILLINOIS, and any of Complainant's employees, agents, representatives, successors or assigns, or any other person acting or believed by Complainant to have acted on their behalf.

2. "Communication" shall mean, without limitation, any and all forms of transferring information, including discussions, conversations, meetings, conferences, interviews, negotiations, agreements, understandings, inquiries, correspondence, documents, or other transfers of information whether written or oral or by any other means, and includes any document which abstracts, digests, transcribes or records any communication.

3. "Facility" and/or "Site" shall mean the property located at South Front Street and Distillery in Pekin, Tazewell County, Illinois, as reference in paragraph 5, Count I of the Complaint.

4. "Person" shall include, but is not limited to, any natural person; business or corporation, whether for profit or not; firm, partnership, or other non-corporate business organization; charitable, religious, education, governmental, or other non-profit institution, foundation, body, or other organization; or employee, agent or representative of any of the foregoing.

5. "Or" shall mean and/or wherever appropriate.

6. "Related to" or "relating to" or "in relation to" shall mean anything which directly or indirectly, concerns, consists of, pertains to, reflects, evidences, describes, sets forth, constitutes, contains, shows, underlies, supports, refers to in any way, is or was used in the preparation of, is appended to, or tends to prove or disprove.

7. "Relied upon" shall mean being or having been depended upon or referred to or being or having been arguably appropriate for such reliance.

8. "Knowledge" means first-hand information and/or information derived from any other source, including hearsay.

9. "IEPA" means the Illinois Environmental Protection Agency.

10. "Board" shall mean the Illinois Pollution Control Board.

11. "Current" or "Present" means the filing date of these Interrogatories.

12. All terms not specifically defined herein shall have their logical ordinary meaning, unless such terms are defined in the Act or the regulations promulgated thereunder, in which case the appropriate or regulatory definitions will apply.

III. REQUESTS FOR ADMISSION

1. Admit that MGP requested a construction permit for a wet electrostatic precipitator for its feed dryers.

RESPONSE:

2. Admit that IEPA denied MGP's construction permit application for a wet electrostatic precipitator in or about 1997.

RESPONSE:

3. Admit that MGP verbally requested in a meeting for permission to construct a regenerative thermal oxidizer on its feed dryers in or about December 1999.

RESPONSE:

4. Admit that IEPA told Midwest Grain that no construction permit application for a regenerative thermal oxidizer on MGP's feed dryers would be approved until IEPA had finished air emission modeling for the MGP facility.

RESPONSE:

5. Admit that subsequent to January 1, 2005, IEPA informed MGP or its consultant, August Mack, that IEPA was still conducting air emission modeling related to particulate emissions at the MGP facility.

RESPONSE:

6. Admit that the IEPA's air emission modeling related to particulate emissions at the MGP facility is not complete or, if it is complete as of the date of the response to this request, admit that the IEPA's air emission modeling related to particulate emissions at the MGP facility was completed after June 1, 2005.

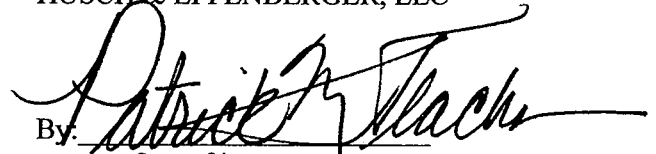
RESPONSE:

7. Admit that IEPA stated in a meeting that the "economic benefit clock" stopped running for purposes of enforcement and penalties on or about December 1999.

RESPONSE:

Respectfully submitted,

HUSCH & EPPENBERGER, LLC

By: 
One of its attorneys

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190 Carondelet Plaza, Suite 600
St. Louis, Missouri 63105
(314) 480-1500