

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB No. 15-112
)	(Enforcement – Air)
INCOBRASA INDUSTRIES, LTD.,)	
an Illinois corporation,)	
)	
Respondent.)	

NOTICE OF FILING AND SERVICE

To: ALL PERSONS ON THE ATTACHED CERTIFICATE OF SERVICE

Please take notice that today, April 17, 2020, I have filed with the Clerk of the Illinois Pollution Control Board a Stipulation and Proposal for Settlement and a Motion to Request Relief from Hearing Requirement, and have served each person listed on the attached service list with a copy of the same.

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

By: /s/ Stephen J. Sylvester
Stephen J. Sylvester
Senior Assistant Attorney General
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CERTIFICATE OF SERVICE

People of the State of Illinois v. Incobrasa Industries, Ltd., PCB 15-112 (Enforcement – Air)

I, Stephen J. Sylvester, do hereby certify that, today, April 17, 2020, I caused to be served on the individuals listed below, by electronic mail, a true and correct copy of the Notice of Filing, Stipulation and Proposal for Settlement and Motion to Request Relief from Hearing Requirement on each of the parties listed below:

/s/ Stephen J. Sylvester

Carol Webb
Hearing Officer
Illinois Pollution Control Board
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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) (2018), 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) (2018). In support of this motion, Complainant states as follows:

1. On December 19, 2014, a Complaint was filed on behalf of the People of the State of Illinois by Lisa Madigan, Attorney General of the State of Illinois, on her own motion and upon the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2018), against the Respondent. On July 7, 2015, Complainant’s First Amended Complaint was accepted as filed by the Board. On June 18, 2019, Complainant’s Second Amended Complaint was accepted as filed by the Board.

2. The Second Amended Complaint in this matter alleges violations of Section 9(a) and (b), 9.1(d), and 39.5(6)(a) of the Act, 415 ILCS 5/9(a) and (b), 9.1(d), and 39.5(6)(a), Sections 201.142 and 244.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142 and 244.141, Sections 60.7(a)(1) and 60.11(d) of New Source Performance Standards

(“NSPS”) Subpart A, 40 C.F.R. § 60.7(a)(1) and 60.11(d), Sections 60.48b(b), (c), and (e), and 60.49b(h), (g)(2) through (10) and (w) of NSPS” Subpart Db, 40 C.F.R. § 60.48b(b), (c) and (e), and 60.49b(h), (g)(2) through (10) and (w), Section 60.665(a) and (l) of NSPS Subpart NNN, 40 C.F.R. § 60.665(a) and (l), Section 60.705(a) and (l) of NSPS Subpart RRR, 40 C.F.R. § 60.705(a) and (l), Sections 63.4(a), 63.5(d)(1)(ii)(D), (E), and (F), 63.9(b)(1)(iii) and (2)(iii), (iv), and (v), and (h)(2), 63.10(d) of National Emission Standards for Hazardous Air Pollutants (“NESHAP”) Subpart A 40 C.F.R. §§ 63.4(a), 63.5(d)(1)(ii)(D), (E), and (F), 63.9(b)(1)(iii) and (2)(iii), (iv), and (v), and (h)(2), 63.10(d), Section 63.115(d)(2)(ii) of NESHAP Subpart G, 40 C.F.R. § 63.115(d)(2)(ii), Section 63.1039(b)(1) of NESHAP Subpart UU, 40 C.F.R. § 63.1039(b)(1), Sections 63.2455(b), 63.2515(a), and 63.2520(d), (e)(9), and (10) of NESHAP Subpart FFFF, 40 C.F.R. §§ 63.2455(b), 63.2515(a), and 63.2520(d), (e)(9), and (10), Sections 63.2860(a) and (d), 63.2862(d)(1) and (2), and 63.2861(a) of National Emission Standards for Hazardous Air Pollutants (“NESHAP”) Subpart GGGG, 40 C.F.R. §§ 63.2860(a) and (d), 63.2862(d)(1) and (2) and 63.2861(a), Sections 63.7510(e) and 63.7545(e)(6) and (8)(i) of NESHAP Subpart DDDDD, 40 C.F.R. §§ 63.7510(e) and 63.7545(e)(6) and (8)(i), Conditions 5.2.5(a), 5.2.6, 5.5.1, 5.6.3(a), 5.7.1, 7.1.9(a) and (d), 7.2.9(a), 7.3.9(a)(ii)(B) and (D) and (iv)(A) and (B), 7.3.10(a), 7.4.5(c) and (d)(i), 7.4.6(a), 7.4.8(a), 7.4.9(b) and (d)(i) and (iii)(C) through (J), 7.4.10, 7.5.9(a) and (b), 7.6.9(a) and (c), 8.6.1, 9.2.2, 9.2.3, 9.8(a) of the Facility’s Clean Air Act Permit Program (“CAAPP”) Permit, and Conditions 1.5, 1.6(a) and (b), 2.1.2(a)(ii), 2.1.7, 2.1.8(d)(i) through (iv), 2.1.9(a), 2.2.4(a)(vi), of Construction Permit 06050042, and Condition 1.1.9(a) and (b) of Construction Permit 07050034.

3. Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2018), allows the parties in certain enforcement cases to request relief from the mandatory hearing requirement where the

parties have submitted to the Board a stipulation and proposal for settlement.

4. The parties have reached agreement on all outstanding issues in this matter.

5. This agreement is presented to the Board in a Stipulation and Proposal for Settlement filed this same date.

6. 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) (2018).

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) (2018).

Respectfully submitted,

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

BY: /s/ Stephen J. Sylvester
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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 INCOBRASA INDUSTRIES, LTD., an Illinois 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. (2018), and the Board’s regulations, alleged in the Second Amended 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 December 19, 2014, a Complaint was filed on behalf of the People of the State of Illinois by Lisa Madigan, Attorney General of the State of Illinois, on her own motion and

upon the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2018), against the Respondent. On July 7, 2015, Complainant's First Amended Complaint was accepted as filed by the Board. On June 18, 2019, Complainant's Second Amended Complaint was accepted as filed by the Board.

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 (2018).

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

4. At all times relevant to the Second Amended Complaint, Respondent owned and operated a soybean processing and biodiesel manufacturing facility located at 540 East US Highway 24, Gilman, Iroquois County, Illinois ("Facility" or "Site").

B. Allegations of Non-Compliance

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

- Count I: Failure to install and operate a continuous emissions monitoring system ("CEMS"), in violation of Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2018), and Section 60.48b(b), (c), and (e) of New Source Performance Standards ("NSPS") Subpart Db, 40 C.F.R. § 60.48b(b), (c) and (e);
- Count II: Failure to submit excess emission reports, in violation of Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2018), and Sections 60.49b(h) and (w) of NSPS Subpart Db, 40 C.F.R. § 60.49b(h) and (w);
- Count III: Failure to file a written episode action plan, in violation of Section 9(a) of the Act, 415 ILCS 5/9(a) (2018), and Section 244.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 244.141;
- Count IV: Failure to submit National Emission Standards for Hazardous Air Pollutants ("NESHAP") notifications, in violation of Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2018), and Sections 63.2860(a) and (d) and 63.2861(a) of NESHAP Subpart GGGG, 40 C.F.R. §§ 63.2860(a) and (d) and 63.2861(a);

- Count V: Failure to keep records, in violation of Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2018), Section 60.49b(g)(2) through (10) of NSPS Subpart Db, 40 C.F.R. § 60.49b(g)(2) through (10), and Section 63.2862(d)(1) and (2) of NESHAP Subpart GGGG, 40 C.F.R. § 63.2862(d)(1) and (2);
- Count VI: Violating Clean Air Act Permit Program (“CAAPP”) Permit recordkeeping conditions, in violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Conditions 7.4.8(a), 5.2.6, 7.3.10(a), 7.4.9(d)(i) and (iii)(C) through (J), 7.4.9(b), 7.1.9(a) and (d), 7.2.9(a), 7.3.9(a)(ii)(B) and (D) and (iv)(A) and (B), 7.5.9(a) and (b), 7.6.9(a) and (c), 5.6.3(a), and 5.7.1 of the Facility’s CAAPP Permit;
- Count VII: Emissions in excess of CAAPP Permit fee limits, in violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 5.5.1 of the CAAPP Permit;
- Count VIII: Violating construction permit conditions, in violation of Section 9(b) of the Act, 415 ILCS 5/9(b) (2018), Condition 1.1.9(a) and (b) of Construction Permit 07050034, and Conditions 2.1.8(d)(i) through (iv), 2.2.4(a)(vi), and 1.6(b) of Construction Permit 06050042;
- Count IX: Exceeding Nitrogen Oxide (“NO_x”) emission limits during Boiler A operations, in violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Conditions 7.4.6(a) and 7.4.10 of the CAAPP Permit;
- Count X: Failure to timely submit complete and accurate monitoring reports – CAAPP Permit Condition 8.6.1, in violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 8.6.1 of the CAAPP Permit;
- Count XI: Failure to obtain a construction permit, in violation of Section 9(b) of the Act, 415 ILCS 5/9(b) (2018), and Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142;
- Count XII: Failure to maintain Boiler A, in violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 9.2.2 of the CAAPP Permit;
- Count XIII: Operation of Boiler A during a period of breakdown in excess of permit limits, in violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 9.2.3 of the CAAPP Permit;
- Count XIV: Failure to operate Boiler A in a manner consistent with good air pollution control practice, in violation of Sections 9.1(d) and 39.5(6)(a) of the Act, 415 ILCS 5/9.1(d) and 39.5(6)(a) (2018), Section 60.11(d) of NSPS

Subpart A, 40 C.F.R. § 60.11(d), and Conditions 7.4.5(c) and (d)(i) of the CAAPP Permit;

- Count XV: Failure to submit deviation reports, in violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 5.7.1 of the CAAPP Permit;
- Count XVI: Failure to timely provide complete and accurate notifications – NSPS Subparts A and NNN, in violation of Sections 9(b), 9.1(d) and 39.5(6)(a) of the Act, 415 ILCS 5/9(b), 9.1(d), and 39.5(6)(a) (2018), Section 60.7(a)(1) of NSPS Subpart A, 40 C.F.R. § 60.7(a)(1), Section 60.665(a) of NSPS Subpart NNN, 40 C.F.R. § 60.665(a), Condition 5.2.5(a) of the CAAPP Permit, and Conditions 2.1.2(a)(ii) and 2.1.9(a) of Construction Permit 06050042;
- Count XVII: Failure to timely submit complete and accurate semi-annual reports – NSPS Subpart NNN, in violation of Sections 9(b), 9.1(d) and 39.5(6)(a) of the Act, 415 ILCS 5/9(b), 9.1(d), and 39.5(6)(a) (2018), Section 60.665(l) of NSPS Subpart NNN, 40 C.F.R. § 60.665(l), Condition 5.2.5(a) of the CAAPP Permit, and Conditions 2.1.2(a)(ii) and 2.1.9(a) of Construction Permit 06050042;
- Count XVIII: Failure to timely provide complete and accurate notifications – NSPS Subparts A and RRR, in violation of Sections 9(b), 9.1(d) and 39.5(6)(a) of the Act, 415 ILCS 5/9(b), 9.1(d), and 39.5(6)(a) (2018), Section 60.705(a) of NSPS Subpart RRR, 40 C.F.R. § 60.705(a), Section 60.7(a)(1) of NSPS Subpart A, 40 C.F.R. § 60.7(a)(1), Condition 5.2.5(a) of the CAAPP Permit, and Condition 2.1.9(a) of Construction Permit 06050042;
- Count XIX: Failure to timely submit complete and accurate semi-annual reports – NSPS Subpart RRR, in violation of Sections 9(b), 9.1(d) and 39.5(6)(a) of the Act, 415 ILCS 5/9(b), 9.1(d), and 39.5(6)(a) (2018), Section 60.705(l) of NSPS Subpart RRR, 40 C.F.R. § 60.705(l), Condition 5.2.5(a) of the CAAPP Permit, and Condition 2.1.9(a) of Construction Permit 06050042;
- Count XX: Failure to submit complete and accurate compliance certifications for 2013 and 2014, in violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 9.8(a) of the CAAPP Permit;
- Count XXI: Failure to timely conduct an initial boiler tune-up, in violation of Sections 9.1(d) and 39.5(6)(a) of the Act, 415 ILCS 5/9.1(d) and 39.5(6)(a) (2018), Section 63.7510(e) of NESHAP Subpart DDDDD, 40 C.F.R. § 63.7510(e), and Condition 5.2.5(a) of the CAAPP Permit;

- Count XXII: Failure to timely submit a complete and accurate notification of Facility's compliance status with NESHAP Subpart DDDDD, in violation of Sections 9.1(d) and 39.5(6)(a) of the Act, 415 ILCS 5/9.1(d) and 39.5(6)(a) (2018), Section 63.7545(e)(6) and (8)(i) of NESHAP Subpart DDDDD, 40 C.F.R. § 63.7545(e)(6) and (8)(i), Sections 63.4(a) and 63.9(h)(2) of NESHAP Subpart A, 40 C.F.R. §§ 63.4(a) and 63.9(h)(2), and Condition 5.2.5(a) of the CAAPP Permit;
- Count XXIII: Failure to submit a complete and accurate notification of compliance status with NESHAP Subpart DDDDD for Boiler A operations, in violation of Sections 9.1(d) and 39.5(6)(a) of the Act, 415 ILCS 5/9.1(d) and 39.5(6)(a) (2018), Sections 63.4(a) and 63.9(h)(2)(i)(A), (C), and (G) of NESHAP Subpart A, 40 C.F.R. §§ 63.4(a) and 63.9(h)(2)(i)(A), (C), and (G), and Condition 5.2.5(a) of the CAAPP Permit;
- Count XXIV: Failure to monitor scrubbant flow rate and pressure drop required by Construction Permit 06050042, in violation of Section 9(b) of the Act, 415 ILCS 5/9(b) (2018), and Conditions 1.5, 1.6(b), and 2.1.7 of Construction Permit 06050042;
- Count XXV: Failure to timely submit complete and accurate semi-annual emissions reports relative to agitator operations, in violation of Sections 9(b), 9.1(d) and 39.5(6)(a) of the Act, 415 ILCS 5/9(b), 9.1(d), and 39.5(6)(a) (2018), Section 63.1039(b)(1) of NESHAP Subpart UU, 40 C.F.R. § 63.1039(b)(1), Section 63.2520(e)(9) of NESHAP Subpart FFFF, 40 C.F.R. § 63.2520(e)(9), Section 63.10(d) of NESHAP Subpart A, 40 C.F.R. § 63.10(d), Condition 5.2.5(a) of the CAAPP Permit, and Conditions 2.1.2(a)(ii) and 2.1.9(a) of Construction Permit 06050042;
- Count XXVI: Failure to timely submit NESHAP Subpart FFFF initial notification, in violation of Sections 9(b), 9.1(d) and 39.5(6)(a) of the Act, 415 ILCS 5/9(b), 9.1(d), and 39.5(6)(a) (2018), Sections 63.4(a)(2), 63.5(d)(1)(ii)(D), (E), and (F) and 63.9(b)(1)(iii) and (2)(iii), (iv), and (v) of NESHAP Subpart A, 40 C.F.R. §§ 63.4(a)(2), 63.5(d)(1)(ii)(D), (E), and (F), and 63.9(b)(1)(iii) and (2)(iii), (iv), and (v), Section 63.2515(a) of NESHAP Subpart FFFF, 40 C.F.R. § 63.2515(a), Condition 5.2.5(a) of the CAAPP Permit, and Conditions 1.6(a) and 2.1.9(a) of Construction Permit 06050042;
- Count XXVII: Submission of untimely, incomplete and inaccurate notification of initial compliance status report, in violation of Sections 9(b), 9.1(d), and 39.5(6)(a) of the Act, 415 ILCS 5/9(b), 9.1(d), and 39.5(6)(a) (2018), Sections 63.9(h)(2) and 63.10(d) of NESHAP Subpart A, 40 C.F.R. §§ 63.9(h)(2) and 63.10(d), Sections 63.2520(d) and 63.2535 of NESHAP Subpart FFFF, 40 C.F.R. §§ 63.2520(d) and 63.2535, Condition 5.2.5(a)

of the CAAPP Permit, and Condition 2.1.9(a) of Construction Permit 06050042;

Count XVIII: Failure to timely submit a compliance report to demonstrate compliance with NESHAP when utilizing an alternate compliance method, in violation of Sections 9(b), 9.1(d), and 39.5(6)(a) of the Act, 415 ILCS 5/9(b), 9.1(d) and 39.5(6)(a) (2018), Section 63.10(d) of NESHAP Subpart A, 40 C.F.R. § 63.10(d), Section 63.115(d)(2)(ii) of NESHAP Subpart G, 40 C.F.R. § 63.115(d)(2)(ii), Sections 63.2515, 63.2520(e)(10)(i) and 63.2455(b) of NESHAP Subpart FFFF, 40 C.F.R. §§ 63.2515, 63.2520(e)(10)(i) and 63.2455(b), Condition 5.2.5(a) of the CAAPP Permit, and Condition 2.1.9(a) of Construction Permit 06050042; and

Count XXIX: Failure to timely submit complete and accurate semi-annual reports – NESHAP Subpart FFFF, in violation of Sections 9(b), 9.1(d), and 39.5(6)(a) of the Act, 415 ILCS 5/9(b), 9.1(d) and 39.5(6)(a) (2018), Sections 63.4(a)(2) and 63.10(d) of NESHAP Subpart A, 40 C.F.R. §§ 63.4(a)(2) and 63.10(d), Section 63.2520(e)(10) of NESHAP Subpart FFFF, 40 C.F.R. § 63.2520(e)(10), Condition 5.2.5(a) of the CAAPP Permit, and Conditions 1.6(a) and 2.1.9(a) of Construction Permit 06050042.

C. Non-Admission of Violations

The 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, the Respondent does not affirmatively admit the allegations of violation within the Second Amended Complaint and referenced within Section I.B herein, and this Stipulation shall not be interpreted as including such admission.

II. APPLICABILITY

This Stipulation shall apply to and be binding upon the Parties to the Stipulation. The 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 the 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 Second Amended Complaint in this matter, for purposes of Sections 39 and 42 of the Act, 415 ILCS 5/39 and 42 (2018).

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

Section 33(c) of the Act, 415 ILCS 5/33(c) (2018), 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 monitoring, notification, recordkeeping, deviation reporting, and semi-annual reporting requirements violations, thereby threatening human health and the environment. In addition, the Facility emitted NO_x in excess of its permit limits, thereby threatening human health and the environment.
2. There is social and economic benefit to the Facility.

3. Operation of the Facility was and is suitable for the area in which it is located.

4. Operating in compliance with emission limits set forth in the Facility's CAAPP Permit, conducting required testing, timely submitting accurate reports, and obtaining necessary construction and operating permits is technically practicable and economically reasonable.

5. Respondent has submitted corrected late and/or revised reports and records, and no further violations of the Facility's emission limits have been documented.

IV. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h) (2018), 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. Reporting violations at the Facility began in 2005 and 2006, when Respondent failed to submit to the Illinois EPA a notification of compliance status or annual certification. Other reporting and records violations occurred and were subsequently resolved on various dates, through 2017, when Respondent ultimately submitted late and/or revised reports and records. In addition to reporting and records violations, Respondent operated a gas-fired boiler without the required CEMS from June 18, 2012 through May 9, 2013; emitted VOM or particulate matter (“PM”) in excess of its CAAPP Permit fee limits in the years 2007, 2008, 2009, 2011, and 2012; emitted NO_x in excess of its CAAPP Permit limit on various dates between July 4, 2013 through April 12, 2016; failed to perform the initial tune-up of its boiler from January 31, 2016 until April 21, 2016; and failed to measure and record scrubbant flow rate and pressure drop during operations of its biodiesel plant from January 1, 2007 through August 22, 2016. Complainant alleges that Respondent also failed to obtain a construction permit for the construction of a new boiler at the Facility.
2. Respondent was diligent in attempting to come back into compliance with the Act, Board regulations and applicable federal regulations, once the Illinois EPA notified it of its noncompliance.
3. The civil penalty takes into account any economic benefit realized by the 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 Seven Hundred Fifty Thousand Dollars (\$750,000.00) 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

1. The Respondent shall pay a civil penalty in the sum of Seven Hundred Fifty Thousand Dollars (\$750,000.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

B. Interest and Default

1. If the Respondent fails to make any payment required by this Stipulation on or before the date upon which the payment is due, the 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:

Stephen J. Sylvester
Senior Assistant Attorney General
Environmental Bureau
Illinois Attorney General’s Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602

D. Future Compliance

1. Respondent shall conduct operations of Boiler C at the Facility in compliance with Construction Permit 16100013, issued by Illinois EPA on July 13, 2018, until a new CAAPP permit has been issued to the Facility that incorporates the requirements applicable to Boiler C.

2. At all times in the future, Respondent shall comply with monitoring, notification, recordkeeping, deviation reporting, and semi-annual reporting requirements specified by NSPS, 40 C.F.R. Part 60, Subpart A (§ 60.1 *et seq.*), Subpart NNN (§ 60.660 *et seq.*), Subpart RRR (§

60.700 *et seq.*), NESHAP, 40 C.F.R. Part 63, Subpart A (§ 63.1 *et seq.*), Subpart FFFF (§ 63.2430 *et seq.*), and State construction, operating, and CAAPP permits issued to the Facility.

3. At all times in the future, Respondent shall obtain all requisite operating and emissions data to ensure compliance with all applicable NSPS, NESHAP, and permit recordkeeping, reporting, and notification requirements, and ensure that records containing such information are complete and accurate.

4. In addition to any other authorities, the Illinois EPA, its employees and representatives, and the Attorney General, his employees and representatives, shall have the right of entry into and upon the Respondent's facility which is the subject of this Stipulation, at all reasonable times for the purposes of conducting inspections and evaluating compliance status. In conducting such inspections, the Illinois EPA, its employees and representatives, and the Attorney General, his employees and representatives, may take photographs, samples, and collect information, as they deem necessary.

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

6. The Respondent shall cease and desist from future violations of the Act, Board Regulations, and permits that were the subject matter of the Second Amended Complaint.

E. Release from Liability

In consideration of the Respondent's payment of the \$750,000.00 penalty, its commitment to cease and desist as contained in Section V.D.6 above, and upon the Board's approval of this Stipulation, the Complainant releases, waives and discharges the Respondent from any further liability or penalties for the violations of the Act and Board regulations that

were the subject matter of the Second Amended Complaint herein. The release set forth above does not extend to any matters other than those expressly specified in Complainant's Second Amended Complaint that was accepted as filed on June 18, 2019. The Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against the 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 the 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.

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
KWAME RAOUL
Attorney General
State of Illinois

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

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

JOHN J. KIM, Director
Illinois Environmental Protection Agency

BY: _____
ELIZABETH WALLACE, Chief
Assistant Attorney General
Environmental Bureau

BY:  _____
CHARLES W. GUNNARSON
Acting Chief Legal Counsel

DATE: _____

DATE: 4/7/2020 _____

INCOBRASA INDUSTRIES, LTD.

BY: _____

Name: _____

Title: _____

DATE: _____

People of the State of Illinois v. Incobrasa Industries, Ltd., PCB No. 15-112

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
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Attorney General
State of Illinois

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Environmental Enforcement/
Asbestos Litigation Division

JOHN J. KIM, Director
Illinois Environmental Protection Agency

BY: /s/ Elizabeth Wallace
ELIZABETH WALLACE, Chief
Assistant Attorney General
Environmental Bureau

BY: _____
CHARLES W. GUNNARSON
Acting Chief Legal Counsel

DATE: April 8, 2020

DATE: _____

INCOBRASA INDUSTRIES, LTD.

BY: _____

Name: _____

Title: _____

DATE: _____

People of the State of Illinois v. Incobrasa Industries, Ltd., PCB No. 15-112

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BY: _____
ELIZABETH WALLACE, Chief
Assistant Attorney General
Environmental Bureau

BY: _____
CHARLES W. GUNNARSON
Acting Chief Legal Counsel

DATE: _____

DATE: _____

INCOBRASA INDUSTRIES, LTD.

BY:  _____

Name: Aluizio Ribeiro

Title: President/CEO

DATE: April 16, 2020

People of the State of Illinois v. Incobrasa Industries, Ltd., PCB No. 15-112