BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	**PCB No. 13 - 12**
	)	(Enforcement – Air)
NACME STEEL PROCESSING, LLC, a Delaware limited liability corporation,	)	
	)	
	)	
Respondent.	)	

EXHIBIT A

COMPLAINT

Electronic Filing - Received, Clerk's Office, 09/05/2012
** * * * * PCB 2013-012 * * * * **

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	**PCB No. 13-**
	)	(Enforcement – Air)
NACME STEEL PROCESSING, LLC,	)	
a Delaware limited liability corporation,	)	
	)	
Respondent.	)	

NOTICE OF ELECTRONIC FILING

TO: Edward V. Walsh, III
ReedSmith LLP
10 South Wacker Drive
Chicago, Illinois 60606-7507

PLEASE TAKE NOTICE that today, September 5, 2012, I have filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the following Complaint a true and correct copy of which is attached and hereby served upon you.

Pursuant to 35 Ill. Adm. Code 103.204(f), I am required to state that failure to file an answer to this Complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the Complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney.

CERTIFICATE OF SERVICE

I, Nancy J. Tikalsky, an Assistant Attorney General, do certify that a true and correct copy of the Complaint and Notice of Filing were sent by certified mail with return receipt requested to the persons listed on the Notice of Filing on September 5, 2012.

BY: _____
NANCY J. TIKALSKY

NOTIFICATION

YOU ARE HEREBY NOTIFIED that financing may be available through the Illinois Environmental Facilities Financing Act (20 ILCS 3515/1 *et seq.*) to correct the alleged pollution.

THIS FILING IS SUBMITTED ON RECYCLED PAPER

PEOPLE OF THE STATE OF ILLINOIS,
by LISA MADIGAN, Attorney General
of the State of Illinois

BY: _____

NANCY J. TIKALSKY
Assistant Attorney General
Environmental Bureau
69 W. Washington St., Suite 1800
Chicago, Illinois 60602
(312) 814-8567

Date: September 5, 2012

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	**PCB No. 13-**
	)	(Enforcement – Air)
NACME STEEL PROCESSING, LLC, a Delaware limited liability corporation,	)	
	)	
Respondent.	)	

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), complains of Respondent, Nacme Steel Processing, LLC ("Nacme"), as follows:

COUNT I

OPERATING A MAJOR STATIONARY SOURCE WITHOUT A CAAPP PERMIT

1. This count is brought 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 at the request of the Illinois EPA, pursuant to Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(2010).

2. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2010), and charged, *inter alia*, with the duty of enforcing the Act.

3. At all times relevant to this complaint, Respondent has been and is a Delaware limited liability corporation in good standing and duly authorized to do

business in the State of Illinois. Nacme owns and operates a steel processing facility located at 429 West 127th Street, Chicago, Cook County, Illinois ("Facility").

4. At the Facility, Nacme operates a ninety (90) ton per hour continuous coil pickling line, comprised of four (4) pickling tanks enclosed in a turbo tunnel enclosure, and a four (4) stage washer. Emissions from the tanks and washers are vented to a Pro-Eco four tray scrubber ("scrubber").

5. The pickling tanks, which are heated to approximately 190 degrees Fahrenheit, utilize hydrochloric acid ("HCL") at various concentrations in a dissolution process to remove impurities from hot rolled steel ("pickling"). After pickling, the steel goes through an aqueous based four stage washer ("washing").

6. During the pickling and washing, air emissions are captured in ducts and transported via piping to the scrubber. Additionally, pickling and washing tanks containing the HCL are equipped with covers to minimize exposure of HCL to the atmosphere when not in use.

7. On February 8, 2001, the Illinois EPA issued Nacme State Operating Permit No. 96020074 ("SOP") for control of its air emissions at the Facility. The SOP expired on October 25, 2005.

8. On April 12, 2002, the Illinois EPA issued revised construction permit No. 01040081 to Nacme for the installation of an emissions tunnel which required retesting of the modified steel pickling process and allowed Nacme to operate its steel pickling process with a rate greater than that allowed by the SOP for the purposes of stack testing only.

9. On April 16, 2002, Nacme conducted a stack test at its Facility ("April 2002 stack test"). The April 2002 stack test was based on a maximum steel process rate lower than the permitted steel process rate of Nacme's SOP and resulted in emissions greater than allowed by its SOP.

10. On April 4, 2005, Nacme submitted its SOP renewal application to the Illinois EPA ("April 2005 SOP renewal application").

11. On April 13, 2005, the Illinois EPA issued a Notice of Incompleteness to Nacme's April 2005 SOP renewal application for failure to provide a potential to emit ("PTE") calculation for HCL and to demonstrate eligibility for a state operating permit.

12. On September 12, 2005, Nacme submitted a second application for renewal of its SOP ("September 2005 SOP renewal application").

13. On September 20, 2005, the Illinois EPA issued a Notice of Incompleteness ("September 2005 Notice") to Nacme's September 2005 SOP renewal application for Nacme's failure to substantiate the requested permit limits with any stack testing results.

14. Additionally, Nacme was notified in the September 2005 Notice that it required a construction permit because its September 2005 SOP renewal application requested a modification consisting of an increase in the maximum steel process rate allowed by its SOP.

15. Finally, the Illinois EPA notified Nacme in its September 2005 Notice that Illinois EPA had determined that the estimated PTE for the HCL emissions at the Facility based on information provided in Nacme's September 2005 SOP renewal application was greater than 10 tons per year ("tpy") of HCL from a single source. Accordingly, Illinois

EPA informed Nacme in writing that it required a Clean Air Act Permit Program ("CAAPP") permit or, alternatively, a Federally Enforceable State Operating Permit ("FESOP").

16. On October 25, 2005, Nacme submitted to the Illinois EPA a CAAPP application with a request for a FESOP ("2005 FESOP application"). In its 2005 FESOP application, Nacme requested a maximum steel process rate greater than the maximum steel process rate allowed by Nacme's SOP.

17. On December 6, 2005, the Illinois EPA issued a notice of completeness determination of Nacme's FESOP application ("December 2005 Notice"). In addition, in the December 2005 Notice, the Illinois EPA informed Nacme that "notwithstanding the completeness determination, the Agency may request additional information necessary to evaluate or take final action on the FESOP application."

18. On December 21, 2006, Nacme conducted another stack test ("December 2006 stack test"). The test was conducted with a maximum steel process rate greater than the maximum steel process rate allowed by its SOP. Results of the test were reported to the Illinois EPA on February 2, 2007.

19. As of February 1, 2012, or a date better known to Respondents, Nacme has failed to submit a construction permit application for process modifications as an amendment to either its 2005 FESOP application or its 2007 FESOP application.

20. Section 9(b) of the Act, 415 ILCS 5/9(b) (2010), 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;

21. Section 3.315 of the Act, 415 ILCS 5/3.315 (2010), provides the following definition:

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

22. Respondent is a "person" as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2010).

23. Section 3.165 of the Act, 415 ILCS 5/3.165 (2010), provides the following definition:

> "CONTAMINANT" is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

24. HCL is a "contaminant" as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2010).

25. Section 3.115 of the Act, 415 ILCS 5/3.115 (2010), provides the following definition:

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

26. Because the Facility emits, or is capable of emitting, HCL, a contaminant, to the atmosphere, it is capable of causing or contributing to "air pollution" as that term is defined in Section 3.115 of the Act, 415 ILCS 5/3.115 (2010).

27. Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b) (2010), provides as follows:

> Prohibition
>
> After the applicable CAAPP permit or renewal application submittal date, as specified in subsection 5 of this Section, no person shall operate a CAAPP source without a CAAPP permit unless the complete CAAPP permit or renewal application for such a source has been timely submitted to the Agency.

28. Section 39.5(5) of the Act, 415 ILCS 5/39.5(5) (2010), provides, in pertinent part, as follows:

> Applications and Completeness.
>
> * * *
>
> x. ... The owner or operator of an existing source that has been excluded from the provisions of this Section under subsection 1.1 or paragraph (c) of subsection 3 of this Section and that becomes subject to the CAAPP solely due to a change in operation at the source shall submit its complete CAAPP application consistent with this subsection at least 180 days before commencing operation in accordance with the change in operation.

29. Section 39.5(2) of the Act, 415 ILCS 5/39.5(2) (2010), provides, in pertinent part, as follows:

> Applicability
>
> a. Sources subject to this Section shall include:
>
> > i. Any major source as defined in paragraph (c) of this subsection.
> >
> > * * *
>
> c. For purposes of this Section the term "major source" means any source that is:
>
> > i. A major source under Section 112 of the Clean Air Act, which is defined as:
> >
> > > A. For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutant which has been listed pursuant to Section 112(b) of the Clean Air Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as USEPA may establish by rule.

30. Section 39.5(3) of the Act, 415 ILCS 5/39.5(3) (2010), provides, in pertinent part, as follows:

> Agency Authority to Issue CAAPP Permits and Federally Enforceable State Operating Permits.
>
> c. The Agency shall have the authority to issue a State operating permit for a source under subsection (a) of Section 39 of this Act, as amended, and regulations promulgated thereunder, which includes federally enforceable conditions limiting the "potential to emit" of the source to a level below the major source threshold for that source as described in paragraph (c) of subsection 2 of this Section, thereby excluding the source from the CAAPP, when requested by the applicant pursuant to paragraph (u) of subsection 5 of this Section.

31. Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (2010), provides, in pertinent part, the following definitions:

> "CAAPP" means the Clean Air Act Permit Program developed pursuant to Title V of the Clean Air Act.
>
> "CAAPP 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 pursuant to subsection 2 of this Section.
>
> "OWNER OR OPERATOR" means any person who owns, leases, operates, controls, or supervises a stationary source.
>
> "POTENTIAL TO EMIT" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by USEPA. This definition does not alter or affect the use of this term for any other purposes under the Clean Air Act, or the term "capacity factor" as used in Title IV of the Clean Air Act or the regulations promulgated thereunder.
>
> "SOURCE" means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person or persons under common control) and that belongs to a single major industrial grouping....
>
> "STATIONARY SOURCE" means any building, structure, facility, or installation that emits or may emit any regulated air pollutant . . . .
>
> "REGULATED AIR POLLUTANT" means the following:
>
> * * *
>
> (5) Any pollutant subject to a standard promulgated under Section 112 or other requirements established under Section 112 of the Clean Air Act, ...

32. Section 112(a) (6) of the Clean Air Act, 42 USC 7412(a)(6), provides, in pertinent part, the following definition:

> (6) Hazardous air pollutant
>
> The term "hazardous air pollutant" means any air pollutant listed pursuant to subsection (b) of this section.

33. Section 112(b) (List of Pollutants) of the Clean Air Act, 42 USC 12(b)(1), provides, in pertinent part, the following:

> (1) Initial list
>
> The Congress establishes for purposes of this section a list of hazardous air pollutants as follows:
>
> Hydrochloric acid

34. HCL is a "hazardous air pollutant" ("HAP") and a "regulated air pollutant", as those terms are defined by Section 112(b) (List of Pollutants) of the Clean Air Act, 42 USC 12(b)(1), and Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (2010), respectively.

35. The Facility is a "source" and "stationary source," as those terms are defined in Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (2010).

36. Beginning on at least April 16, 2002, or on a date best known to Nacme, Nacme had changed its operations resulting in a PTE of a single HAP, HCL, of greater than 10 tpy, the major source threshold. Accordingly, the Facility is a "major source" as that term is defined in Section 39.5(2)(c) of the Act, 415 ILCS 5/39.5(2)(c) (2010).

37. As a major source since at least April 16, 2002, or a date better known to Nacme, Nacme was required to apply for and submit an application to the Illinois EPA for a CAAPP or, alternatively, a FESOP, at least 180 days before commencing operation

in accordance with the change in operation at the Facility. By operating a major source without timely submitting an application within at least 180 days before commencing operation as a major source, Nacme violated Section 39.5(5)(x) of the Act, 415 ILCS 5/39.5(5)(x) (2010), and, thereby, violated Sections 39.5(6)(b) and 9(b) of the Act, 415 ILCS5/39.5(6)(b) and 9(b) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against the Respondent, NACME STEEL PROCESSING, LLC:

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

2. Finding that Respondent violated Sections 39.5(5)(x), 39.5(6)(b), and 9(b) of the Act, 415 ILCS 5/39.5(5)(x), 39.5(6)(b), and 9(b) (2010);

3. Ordering the Respondent to cease and desist from any further violations of Sections 39.5(5)(x), 39.5(6)(b), and 9(b) of the Act, 415 ILCS 5/39.5(5)(x), 39.5(6)(b), and 9(b) (2010);

4. Ordering Nacme to immediately undertake the necessary corrective action that will result in a final and permanent abatement of violations of Sections 39.5(5)(x), 39.5(6)(b), and 9(b) of the Act, 415 ILCS 5/39.5(5)(x), 39.5(6)(b), and 9(b) (2010), including but not limited to securing a CAAPP or FESOP permit from the Illinois EPA that appropriately reflects the operations and emissions at the Facility;

5. Assessing against Nacme a civil penalty, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010), of Fifty Thousand Dollars ($50,000.00) for each violation of the Act, with an additional penalty of Ten Thousand Dollars ($10,000.00) for each day of violation;

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

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

PEOPLE OF THE STATE OF ILLINOIS,
LISA MADIGAN,
Attorney General of the State of Illinois

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

By: Elizabeth Wallace
ELIZABETH WALLACE, Chief
Environmental Bureau
Assistant Attorney General

Of Counsel:

Nancy J. Tikalsky
Assistant Attorney General
Environmental Bureau
69 W. Washington St., Suite 1800
Chicago, Illinois 60602
(312) 814-8567

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	**PCB No. 13 - 12**
	)	(Enforcement – Air)
NACME STEEL PROCESSING, LLC, a Delaware limited liability corporation,	)	
	)	
	)	
Respondent.	)	

EXHIBIT B

ANSWER

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	**PCB No. 12**
	)	(Enforcement – Air)
NACME STEEL PROCESSING, LLC, a Delaware limited liability corporation,	)	
	)	
Respondent.	)	

NOTICE OF ELECTRONIC FILING

To: Nancy J. Tikalsky
Assistant Attorney General
Environmental Bureau
69 W. Washington St., Suite 1800
Chicago, Illinois 814-8567

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Bradley P. Halloran, Hearing Officer
Illinois Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

PLEASE TAKE NOTICE that today, November 1, 2012, I have filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the following **Answer and Affirmative Defense of NACME Steel Processing, LLC, to the Complaint of the People of the State of Illinois**, a true and correct copy of which is attached and hereby served upon you.

Dated: November 1, 2012

Respectfully submitted,

NACME STEEL PROCESSING, L.L.C.,
Respondent

By: _____
One of Its Attorneys

Edward V. Walsh, III
ReedSmith, LLP
10 South Wacker Drive
Suite 4000
Chicago, Illinois 60606
(312) 207-1000

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	**PCB No. 12**
	)	(Enforcement – Air)
NACME STEEL PROCESSING, LLC, a Delaware limited liability corporation,	)	
	)	
Respondent.	)	

ANSWER AND AFFIRMATIVE DEFENSE OF NACME STEEL PROCESSING, LLC, TO THE COMPLAINT OF THE PEOPLE OF THE STATE OF ILLINOIS

NACME STEEL PROCESSING, LLC, ("NACME") for and as its answer to the Complaint of the PEOPLE OF THE STATE OF ILLINOIS states as follows:

COUNT I

OPERATING A MAJOR STATIONARY SOURCE WITHOUT A CAAPP PERMIT

1. This count is brought 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 at the request of the Illinois EPA, pursuant to Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(2010).

ANSWER: *NACME admits the State has brought a complaint on behalf of the People of the State of Illinois at the request of the Illinois Environmental Protection Agency ("IEPA"). NACME is without knowledge of the truth of the remaining allegations contained in paragraph 1 and on that basis denies such allegations. NACME further denies that the State is entitled to its requested relief.*

2. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2010), and charged, *inter alia*, with the duty of enforcing the Act.

ANSWER: *NACME admits that the IEPA is an administrative agency of the State of Illinois. NACME denies that the State is entitled to its requested relief and is without knowledge of the truth of the remaining allegations contained in paragraph 2, and on that basis denies such allegations.*

3. At all times relevant to this complaint, Respondent has been and is a Delaware limited liability corporation in good standing and duly authorized to do business in the State of Illinois. Nacme owns and operates a steel processing facility located at 429 West 127th Street, Chicago, Cook County, Illinois ("Facility").

ANSWER: *Admitted.*

4. At the Facility, Nacme operates a ninety (90) ton per hour continuous coil pickling line, comprised of four (4) pickling tanks enclosed in a turbo tunnel enclosure, and a four (4) stage washer. Emissions from the tanks and washers are vented to a Pro-Eco four tray scrubber ("scrubber").

ANSWER: *NACME admits that a continuous coil pickling line at its Facility has the capacity to operate at 90 tons per hour. NAMCE admits the remaining allegations of paragraph 4.*

5. The pickling tanks, which are heated to approximately 190 degrees Fahrenheit, utilize hydrochloric acid ("HCL") at various concentrations in a dissolution process to remove impurities from hot rolled steel .("pickling"). After pickling, the steel goes through an aqueous based four stage washer ("washing").

ANSWER: *NACME admits that the pickling tanks are at times heated to approximately 190 degrees Fahrenheit. NACME admits the remaining allegations contained in paragraph 5.*

6. During the pickling and washing, air emissions are captured in ducts and transported via piping to the scrubber. Additionally, pickling and washing tanks containing the HCL are equipped with covers to minimize exposure of HCL to the atmosphere when not in use.

ANSWER: *Admitted.*

7. On February 8, 2001, the Illinois EPA issued Nacme State Operating Permit No. 96020074 ("SOP") for control of its air emissions at the Facility. The SOP expired on October 25, 2005.

ANSWER: *NACME admits that the IEPA issued to NACME a "State Operating Permit-Revised" number 96020074 with an "issued" date of February 8, 2001. NACME admits that the permit bears an "Expiration Date" of October 25, 2005. NACME denies that the permit expired on October 25, 2005. NACME further answers that the permit, which the State has failed to attach to its Complaint, speaks for itself and denies all allegations inconsistent therewith.*

8. On April 12, 2002, the Illinois EPA issued revised construction permit No. 01040081 to Nacme for the installation of an emissions tunnel which required retesting of the modified steel pickling process and allowed Nacme to operate its steel pickling process with a rate greater than that allowed by the SOP for the purposes of stack testing only.

ANSWER: *NACME admits that the IEPA issued to NACME a "Construction Permit-Revised", number 01040081 and bearing a "Date Issued" of April 12, 2002. NACME further answers that the referenced permit, which the State has failed to attach to its Complaint, speaks for itself and denies all allegations inconsistent therewith.*

9. On April 16, 2002, Nacme conducted a stack test at its Facility ("April 2002 stack test"). The April 2002 stack test was based on a maximum steel process rate lower than the permitted steel process rate of Nacme's SOP and resulted in emissions greater than allowed by its SOP.

ANSWER: *NACME admits that it conducted a stack test at its Facility as reported in a written "Gaseous Emissions Test" dated April 16, 2002 provided to IEPA. NACME further answers that the report speaks for itself and NACME denies all allegations inconsistent therewith.*

10. On April 4, 2005, Nacme submitted its SOP renewal application to the Illinois EPA ("April 2005 SOP renewal application").

ANSWER: *NACME admits that by letter dated March 23, 2005 it submitted to IEPA an APC 205A form for renewal of its state operating permit.*

11. On April 13, 2005, the Illinois EPA issued a Notice of Incompleteness to Nacme's April 2005 SOP renewal application for failure to provide a potential to emit ("PTE") calculation for HCL and to demonstrate eligibility for a state operating permit.

ANSWER: *NACME is without knowledge of the truth of the allegations contained in paragraph 11, further answering that the document upon which the State bases its allegations is not attached to the State's Complaint. On this basis NACME denies the allegations contained in paragraph 11.*

12. On September 12, 2005, Nacme submitted a second application for renewal of its SOP ("September 2005 SOP renewal application").

ANSWER: *NACME admits that on or about September 12, 2005, it submitted an application for renewal of its SOP.*

13. On September 20, 2005, the Illinois EPA issued a Notice of Incompleteness ("September 2005 Notice") to Nacme's September 2005 SOP renewal application for Nacme's failure to substantiate the requested permit limits with any stack testing results.

ANSWER: *IEPA's September 20, 2005 notice, which the State has failed to attach to its Complaint, speaks for itself and NACME denies all allegations inconsistent therewith.*

14. Additionally, Nacme was notified in the September 2005 Notice that it required a construction permit because its September 2005 SOP renewal application requested a modification consisting of an increase in the maximum steel process rate allowed by its SOP.

ANSWER: *IEPA's September 20, 2005 notice, which the State has failed to attach to its Complaint, speaks for itself and NACME denies all allegations inconsistent therewith. NACME*

further denies that an increase "in the maximum steel process rate allowed by its SOP" constitutes a "modification" that required the submittal of a construction permit.

15. Finally, the Illinois EPA notified Nacme in its September 2005 Notice that Illinois EPA had determined that the estimated PTE for the HCL emissions at the Facility based on information provided in Nacme's September 2005 SOP renewal application was greater than 10 tons per year ("tpy") of HCL from a single source. Accordingly, Illinois EPA informed Nacme in writing that it required a Clean Air Act Permit Program ("CAAPP") permit or, alternatively, a Federally Enforceable State Operating Permit ("FESOP").

ANSWER: *IEPA's September 20, 2005 notice, which the State has failed to attach to its Complaint, speaks for itself and NACME denies all allegations inconsistent therewith, further stating that the information submitted to IEPA in the September 2005 SOP renewal application was known to IEPA long before that time. .*

16. On October 25, 2005, Nacme submitted to the Illinois EPA a CAAPP application with a request for a FESOP ("2005 FESOP application"). In its 2005 FESOP application, Nacme requested a maximum steel process rate greater than the maximum steel process rate allowed by Nacme's SOP.

ANSWER: *NACME admits that by letter dated October 18, 2005 NACME submitted a FESOP application. NACME further answers that the application, which the State has failed to attach to its Complaint, speaks for itself and denies all allegations inconsistent therewith.*

17. On December 6, 2005, the Illinois EPA issued a notice of completeness determination of Nacme's FESOP application ("December 2005 Notice"). In addition, in the December 2005 Notice, the Illinois EPA informed Nacme that "notwithstanding the completeness determination, the Agency may request additional information necessary to evaluate or take final action on the FESOP application."

ANSWER: *NACME admits that IEPA issued a December 6, 2005 notice. The State has failed to attach the notice to its Complaint and the notice in any event speaks for itself and NACME denies all allegations inconsistent therewith.*

18. On December 21, 2006, Nacme conducted another stack test ("December 2006 stack test"). The test was conducted with a maximum steel process rate greater than the maximum steel process rate allowed by its SOP. Results of the test were reported to the Illinois EPA on February 2, 2007.

ANSWER: *NACME admits that it conducted a stack test on or about December 21, 2006 further answering that the process rate used was known to and approved by IEPA ahead of time. The December 2006 stack test report, which the State has failed to attach to its Complaint, speaks for itself and NACME denies all allegations inconsistent therewith.*

19. As of February 1, 2012, or a date better known to Respondents, Nacme has failed to submit a construction permit application for process modifications as an amendment to either its 2005 FESOP application or its 2007 FESOP application.

ANSWER: *NACME denies that it undertook "process modifications" and on this basis denies that it was required to apply for a construction permit.*

20. Section 9(b) of the Act, 415 ILCS 5/9(b) (2010), 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: *NACME answers that the portion of the Act quoted speaks for itself and denies that it is liable under any part of the Act.*

21. Section 3.315 of the Act, 415 ILCS 5/3.315 (2010), provides the following definition:

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

ANSWER: *NACME answers that the portion of the Act quoted speaks for itself and denies that it is liable under any part of the Act.*

22. Respondent is a "person" as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2010).

ANSWER: *NACME answers that the portion of the Act quoted speaks for itself and denies that it is liable under any part of the Act.*

23. Section 3.165 of the Act, 415 ILCS 5/3.165 (2010), provides the following definition:

> "CONTAMINANT" is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

ANSWER: *NACME answers that the portion of the Act quoted speaks for itself and denies that it is liable under any part of the Act.*

24. HCL is a "contaminant" as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2010).

ANSWER: *NACME answers that the portion of the Act quoted speaks for itself and denies that it is liable under any part of the Act.*

25. Section 3.115 of the Act, 415 ILCS 5/3.115 (2010), provides the following definition:

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

ANSWER: *NACME answers that the portion of the Act quoted speaks for itself and denies that it is liable under any part of the Act.*

26. Because the Facility emits, or is capable of emitting, HCL, a contaminant, to the atmosphere, it is capable of causing or contributing to "air pollution" as that term is defined in Section 3.115 of the Act, 415 ILCS 5/3.115 (2010).

ANSWER: *NACME answers that the portion of the Act quoted speaks for itself and denies that it is liable under any part of the Act.*

27. Section 39.5(6) (b) of the Act, 415 ILCS 5/39.5(6) (b) (2010), provides as follows:

> Prohibition
>
> After the applicable CAAPP permit or renewal application submittal date, as specified in subsection 5 of this Section, no person shall operate a CAAPP source without a CAAPP permit unless the complete CAAPP permit or renewal application for such a source has been timely submitted to the Agency.

ANSWER: *NACME answers that the portion of the Act quoted speaks for itself and denies that it is liable under any part of the Act.*

28. Section 39.5(5) of the Act, 415 ILCS 5/39.5 (5) (2010), provides, in pertinent part, as follows:

> Applications and Completeness.
>
> * * *
>
> x. ... The owner or operator of an existing source that has been excluded from the provisions of this Section under subsection 1.1 or paragraph (c) of subsection 3 of this Section and that becomes subject to the CAAPP solely due to a change in operation at the source shall submit its complete CAAPP application consistent with this subsection at least 180 days before commencing operation in accordance with the change in operation.

ANSWER: *NACME answers that the portion of the Act quoted speaks for itself and denies that it is liable under any part of the Act.*

29. Section 39.5(2) of the Act, 415 ILCS 5/39.5(2) (2010), provides, in pertinent part, as follows:

> Applicability
>
> a. Sources subject to this Section shall include:

i. Any major source as defined in paragraph (c) of this subsection.

c. For purposes of this Section the term "major source" means any source that is:

i. A major source under Section 112 of the Clean Air Act, which is defined as:

A. For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutant which has been listed pursuant to Section 112 (b) of the Clean Air Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as USEPA may establish by rule.

ANSWER: *NACME answers that the portion of the Act quoted speaks for itself and denies that it is liable under any part of the Act.*

30. Section 39.5(3) of the Act, 415 ILCS 5/39.5 (3) (2010), provides, in pertinent part, as follows:

Agency Authority to Issue CAAPP Permits and Federally Enforceable State Operating Permits.

c. The Agency shall have the authority to issue a State operating permit for a source under subsection (a) of Section 39 of this Act, as amended, and regulations promulgated thereunder, which includes federally enforceable conditions limiting the "potential to emit" of the source to a level below the major source threshold for that source as described in paragraph (c) of subsection 2 of this Section, thereby excluding the source from the CAAPP, when requested by the applicant pursuant to paragraph (u) of subsection 5 of this Section.

ANSWER: *NACME answers that the portion of the Act quoted speaks for itself and denies that it is liable under any part of the Act.*

31. Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (2010), provides, in pertinent part, the following definitions:

"CAAPP" means the Clean Air Act Permit Program developed pursuant to Title V of the Clean Air Act.

"CAAPP 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 pursuant to subsection 2 of this Section.

"OWNER OR OPERATOR" means any person who owns, leases, operates, controls, or supervises a stationary source.

"POTENTIAL TO EMIT" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by USEPA. This definition does not alter or affect the use of this term for any other purposes under the Clean Air Act, or the term "capacity factor" as used in Title IV of the Clean Air Act or the regulations promulgated thereunder.

"SOURCE" means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person or persons under common control) and that belongs to a single major industrial grouping....

"STATIONARY SOURCE" means any building, structure, facility, or installation that emits or may emit any regulated air pollutant . .

"REGULATED AIR POLLUTANT" means the following:

(5) Any pollutant subject to a standard promulgated under Section 112 or other requirements established under Section 112 of the Clean Air Act, ...

ANSWER: *NACME answers that the portion of the Act quoted speaks for itself and denies that it is liable under any part of the Act.*

32. Section 112(a) (6) of the Clean Air Act, 42 USC 7412 (a) (6), provides, in pertinent part, the following definition:

(6) Hazardous air pollutant

The term "hazardous air pollutant" means any air pollutant listed pursuant to subsection (b) of this section.

ANSWER: *NACME answers that the portion of the Act quoted speaks for itself and denies that it is liable under any part of the Act.*

33. Section 112 (b) (List of Pollutants) of the Clean Air Act, 42 USC 12 (b) (1), provides, in pertinent part, the following:

> (1) Initial list
>
> The Congress establishes for purposes of this section a list of hazardous air pollutants as follows:
>
> Hydrochloric acid

ANSWER: *NACME answers that the portion of the Act quoted speaks for itself and denies that it is liable under any part of the Act.*

34. HCL is a "hazardous air pollutant" ("HAP") and a "regulated air pollutant", as those terms are defined by Section 112 (b) (List of Pollutants) of the Clean Air Act, 42 USC 12 (b) (1), and Section 39.5 (1) of the Act, 415 ILCS 5/39.5(1) (2010), respectively.

ANSWER: *NACME answers that the portion of the Act quoted speaks for itself and denies that it is liable under any part of the Act.*

35. The Facility is a "source" and "stationary source," as those terms are defined in Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (2010).

ANSWER: *NACME answers that the portion of the Act quoted speaks for itself and denies that it is liable under any part of the Act.*

36. Beginning on at least April 16, 2002, or on a date best known to Nacme, Nacme had changed its operations resulting in a PTE of a single HAP, HCL, of greater than 10 tpy, the major source threshold. Accordingly, the Facility is a "major source" as that term is defined in Section 39.5(2) (c) of the Act, 415 ILCS 5/39.5(2) (c) (2010).

ANSWER: *Denied.*

37. As a major source since at least April 16, 2002, or a date better known to Nacme, Nacme was required to apply for and submit an application to the Illinois EPA for a CAAPP or, alternatively, a FESOP, at least 180 days before commencing operation in accordance with the change in operation at the Facility. By operating a major source without timely submitting an application within at least 180 days before commencing operation as a major source, Nacme violated Section 39.5(5) (x) of the Act, 415 ILCS 5/39.5(5) (x) (2010), and, thereby, violated Sections 39.5 (6) (b) and 9(b) of the Act, 415 ILCS5/39.5 (6) (b) and 9(b) (2010).

ANSWER: *NACME denies that it made any change in operation at the Facility as alleged.*

NACME denies the balance of paragraph 37 as stating a legal conclusion to which no response is required.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against the Respondent, NACME STEEL PROCESSING, LLC:

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

2. Finding that Respondent violated Sections 39.5(5) (x), 39.5(6) (b), and 9(b) of the Act, 415 ILCS 5/39.5(5) (x), 39.5 (6) (b), and 9(b) (2010);

3. Ordering the Respondent to cease and desist from any further violations of Sections 39.5(5) (x), 39.5(6) (b), and 9 (b) of the Act, 415 ILCS 5/39.5 (5) (x), 39.5 (6) (b), and 9(b) (2010);

4. Ordering Nacme to immediately undertake the necessary corrective action that will result in a final and permanent abatement of violations of Sections 39.5(5) (x), 39.5(6) (b), and 9 (b) of the Act, 415 ILCS 5/39.5 (5) (x), 39.5(6) (b), and 9 (b) (2010), including but not limited to securing a CAAPP or FESOP permit from the Illinois EPA that appropriately reflects the operations and emissions at the Facility;

5. Assessing against Nacme a civil penalty, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010), of Fifty Thousand Dollars ($50,000.00) for each violation of the Act, with an additional penalty of Ten Thousand Dollars ($10,000.00) for each day of violation;

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

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

WHEREFORE:

NACME requests that Complainant's complaint be dismissed with prejudice and that NACME be awarded its costs.

AFFIRMATIVE DEFENSES

Having fully answered the Complaint, NACME offers the following defenses in further response thereto:

First Defense (Valid Permit)

The State's Complaint fails to state a claim upon which relief can be granted because, among other things, at all times NACME held a valid state operating permit limiting its emissions to below major source thresholds and which, under applicable precedent, is federally enforceable.

Second Defense (Lack of Jurisdiction)

The IEPA did not issue and serve a violation notice upon NACME within 180 days after it became aware of the alleged violation as required by Section 31(a)(1) of the Illinois Environmental Protection Act. The State's allegation that the complaint is filed on its own motion is belied by the State's letter dated January 5, 2012 which states in relevant part: "The Illinois Environmental Protection Agency ("Illinois EPA") referred the above-referenced matter to the Office of the Attorney General for the initiation of an enforcement action". (See Exhibit A attached hereto) As a result, the Board lacks jurisdiction to hear the State's complaint.

Third Defense (Laches)

The State's Complaint is barred by the doctrine of laches because the IEPA has known for years, at least since 2000, of the facts underlying its claim, and has been in regular communication with NACME during that time, but failed without cause to act until now.

Fourth Defense (Waiver)

The State's claims have been waived, in whole or in part, because the IEPA knew or should have known of its purported enforcement rights against NACME, but relinquished those rights by failing to take action timely.

Fifth Defense (Estoppel)

The State's claims are barred, in whole or in part, by the doctrine of estoppel because the Agency regularly communicated with NACME, including thru numerous permit applications, stack tests and during inspections, and knew or should have known of the alleged violation, yet did not inform NACME that is was allegedly violating applicable requirements. Consequently, the IEPA impliedly authorized NACME's operations.

Sixth Defense (No Economic Benefit)

The alleged violation provided no economic benefit to NACME which always operated under and within the limitations of a valid state operating permit, thus no penalties as asserted are applicable.

Seventh Defense (No Harm to Environment)

The alleged violation caused no harm or threat of harm to the environment as NACME has always operated under and within the limitations of a valid state operating permit, thus no penalties as asserted are applicable.

Eighth Defense (No Aid to Enforcement of the Act)

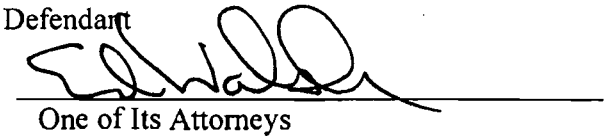
The alleged violation did not impair the IEPA's administration of its air permit program because NACME has always held a valid state operating permit, thus no penalties as asserted would aid in enforcement of the Act.

Ninth Affirmative Defense (No Potential to Emit)

NACME's facility has no potential to emit pollutants above the threshold for major source status as alleged by the IEPA because NACME's facility has a scrubber that is integral to the facility process that controls emissions to below major threshold status.

Respectfully submitted

NACME STEEL PROCESSING, LLC,
Defendant



One of Its Attorneys

Edward V. Walsh, III
REED SMITH LLP
10 South Wacker Drive
Chicago, Illinois 60606-7507
(312) 207-1000

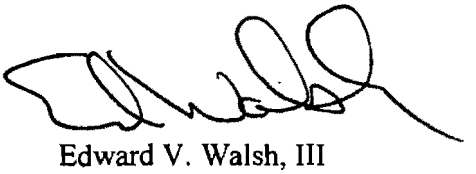
CERTIFICATE OF SERVICE

I, the undersigned, certify that I have served the attached **ANSWER AND AFFIRMATIVE DEFENSE OF NACME STEEL PROCESSING, LLC, TO THE COMPLAINT OF THE PEOPLE OF THE STATE OF ILLINOIS,** by U.S. Regular Mail, upon the following persons:

Nancy J. Tikalsky
Assistant Attorney General
Office of the Illinois Attorney General
Environmental Bureau
69 West Washington Street, Suite 1800
Chicago, Illinois 60602

Bradley P. Halloran, Hearing Officer
Illinois Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

By: 
Edward V. Walsh, III

Date: November 1, 2012

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	**PCB No. 13 - 12**
	)	(Enforcement – Air)
NACME STEEL PROCESSING, LLC, a Delaware limited liability corporation,	)	
	)	
Respondent.	)	

EXHIBIT C

NACME'S ADMISSION OF FACTS

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, Complainant, v. NACME STEEL PROCESSING, LLC, a Delaware limited liability corporation, Respondent.	)	**PCB No. 2013 – 12** (Enforcement – Air)

NACME STEEL PROCESSING, INC's RESPONSE TO COMPLAINANT'S FIRST REQUEST FOR ADMISSION OF FACTS

Pursuant to applicable Board rules and Illinois Supreme Court Rules, Respondent NACME STEEL PROCESSING, Inc, ("NACME") states its objections and responses to the, PEOPLE OF THE STATE OF ILLINOIS' (the "State"), First Request for Admission of Facts, ("Requests"), as follows:

GENERAL OBJECTIONS

1. NACME objects to the Requests insofar as they purport to seek information which is protected from discovery by the attorney-client privilege and other applicable privileges protecting information from discovery.

2. NACME does not concede the relevancy of any information sought or disclosed in responding to the Requests.

3. NACME objects to the instructions and definitions in the Requests insofar as they require NACME to undertake investigation or produce information beyond what is required under Board rules.

4. No answer by NACME should be construed as a waiver of any objection.

REQUEST FOR ADMISSION OF FACTS

FACT NO. 1 From 2000 through January 31, 2012, NACME operated the Facility that processed steel.

RESPONSE: NACME denies this Request as to the period of on or about September 10, 2001 to on or about April 2, 2002. NACME admits the balance of the Request.

FACT NO. 2 From 2000 through January 31, 2012, operations at the Facility emitted HCL.

RESPONSE: NACME denies this Request as to the period of on or about September 10, 2001 to on or about April 2, 2002. NACME objects to the use of the undefined term "emitted". Subject to, and without waiving this specific and its general objections, NACME admits the balance of the Request.

FACT NO. 3 From 2000 through January 31, 2012, Emission Units at the Facility included a Pro-Eco four tray scrubber.

RESPONSE : NACME objects to the State's characterization of NACME's Pro-Eco four tray scrubber as an "Emission Unit" within the meaning included in the State's "Definitions". Subject to, and without waiving this specific and its general objections, NACME admits the Request.

FACT NO. 4 From 2000 through January 31, 2012, operations at the Facility include a continuous coil pickling line that had the capacity to operate at 90 tons per hour.

RESPONSE: NACME denies this Request as to the period of on or about September 10, 2001 to on or about April 2, 2002. NACME admits that its pickling line was capable of processing 90 tons of steel per hour during the balance of the stated time period.

FACT NO. 5 From 2000 through January 31, 2012, operations at the Facility include pickling tanks that have been heated to a maximum of 190 degrees Fahrenheit.

RESPONSE: NACME denies this Request as to the period of on or about September 10, 2001 to on or about April 2, 2002. NACME objects to the confusing form of the Request and subject to, and without waiving this specific and its general objections, NACME admits that the acid solution contained within the pickling tanks has been heated to 190 degrees Fahrenheit during

the stated time period.

FACT NO. 6 Based on the April 2002 stack test, operations at the Facility had the PTE greater than 10 tons per year of HCL emission.

RESPONSE: Denied.

FACT NO. 7 Respondent received a written correspondence titled 'Notice of Incompleteness' from the Illinois EPA dated April 13, 2005.

RESPONSE: Admitted.

FACT NO. 8 Respondent received a written correspondence titled 'Notice of Incompleteness' from the Illinois EPA dated September 20, 2005.

RESPONSE: Admitted.

FACT NO. 9 Respondent's October 2005 FESOP application, requested an increase in the maximum steel process rate greater than was allowed by its SOP.

RESPONSE: Admitted.

FACT NO. 10 Based on the December 2006 stack test, operations at the Facility had the PTE greater than 10 tons per year of HCL emission.

RESPONSE: Denied.

FACT NO. 11 Respondent's March 2007 FESOP application, requested an increase in the maximum steel process rate greater than was allowed by its SOP.

RESPONSE: NACME objects to the Request because it is premised on a characterization by the State and on an unproven fact upon which the State bears the burden of proof, that NACME made a "FESOP application" in March 2007. Subject to, and without waiving this specific and its general objections, NACME admits the Request.

FACT NO. 12 From January 2006 through February 1, 2012, NACME had not submitted a construction permit with its FESOP application as requested by the Illinois EPA in communications to NACME.

RESPONSE: Denied.

FACT NO. 13 Based on the April 2011 stack test, operations at the Facility had the potential to emit greater than 10 tons per year of HCL emission.

RESPONSE: Denied.

FACT NO. 14 NACME constructed a Turbo Tunnel enclosure for its Emission Unit at the Facility in 2002.

RESPONSE: NACME objects to the confusing form of the question, i.e. that NACME constructed a Turbo Tunnel "for its Emission Unit". Subject to and without waiving this or its general objections, NACME admits that it constructed a Turbo Tunnel enclosure at its Facility in 2002.

Respectfully submitted,

NACME STEEL PROCESSING, L.L.C.,

Respondent

By: _____
One of Its Attorneys

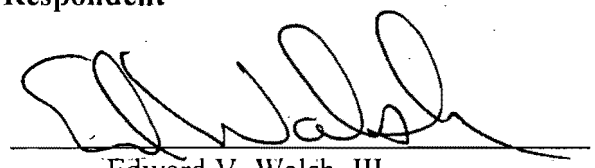
Edward V. Walsh, III
Reed Smith, LLP
10 South Wacker Drive
Suite 4000
Chicago, Illinois 60606
(312) 207-1000

CERTIFICATE OF SERVICE

I, the undersigned, certify that I have served the attached **NACME STEEL PROCESSING L.L.C.'S RESPONSE TO COMPLAINANT'S FIRST REQUEST FOR ADMISSION OF FACTS**, by Email and U.S. Regular Mail, upon the following person:

Nancy J. Tikalsky
Assistant Attorney General
Office of the Illinois Attorney General
Environmental Bureau
69 West Washington Street, Suite 1800
Chicago, Illinois 60602

NACME STEEL PROCESSING, L.L.C.,
Respondent

By: 
Edward V. Walsh, III

Date: March 19, 2013

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	PCB No. 2013 – 12
v.	)	(Enforcement – Air)
	)	
	)	
NACME STEEL PROCESSING, LLC,	)	
	)	
Respondent.	)	

VERIFICATION

I, JOHN DuBROCK, being duly sworn, state that I am the General Manager of NACME Steel Processing, LLC's ("NACME") facility located at 429 West 127th Street, Chicago, Illinois. I have reviewed NACME's Response to Complainant's First Request for Admission of Facts and state that the responses set forth therein are true and accurate to the best of my knowledge and belief.

John DuBrock

Subscribed and sworn to before me, a notary public in and for said County and State, this 19 day of March, 2013.

Barbara J. Kamracy
Notary Public

My Commission Expires: 2-5-14

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	**PCB No. 13 - 12**
	)	(Enforcement – Air)
NACME STEEL PROCESSING, LLC,	)	
a Delaware limited liability corporation,	)	
	)	
Respondent.	)	

EXHIBIT D

WENZEL DEPOSITION

Transcript of the Testimony of
BRITT E. WENZEL

Date: October 17, 2013

Case: PEOPLE OF THE STATE OF ILLINOIS VS. NACME PROCESSING, LLC

TOOMEY REPORTING
Phone: 312-853-0648
Fax: 312-853-9705
Email: toomeyrep@sbcglobal.net
Internet: http://www.toomeyreporting.com/

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, Complainant,	)	
-vs-	)	PCB No. 2013-12
	)	(Enforcement - Air)
NACME STEEL PROCESSING, LLC, A DELAWARE LIMITED LIABILITY CORPORATION, Respondent.	)	

Discovery deposition of BRITT E. WENZEL, taken before NANCY K. SPEARE, C.S.R. and Notary Public, pursuant to the Illinois Pollution Control Board rules and all other applicable rules pertaining to the taking of depositions for the purpose of discovery, at 69 West Washington Street, Chicago, Illinois, commencing at 1:30 p.m. on the 17th day of October, A.D. 2013.

There were present at the taking of this deposition the following counsel:

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OFFICE OF THE ATTORNEY GENERAL
ENVIRONMENTAL BUREAU by
MS. NANCY J. TIKALSKY and
MR. CHRISTOPHER J. GRANT
69 West Washington Street
Suite 1800
Chicago, Illinois 60602
(312) 814-8567,

on behalf of the Complainant;

REED SMITH, LLP by
MR. EDWARD V. WALSH, III
10 South Wacker Drive
40th floor
Chicago, Illinois 60606-7507
(312) 207-1000,
on behalf of the Respondent;
MR. DAVID G. SUSLER
1965 Pratt Boulevard
Elk Grove Village, IL 60007
(847) 806-7273,

on behalf of National Material, L.P.;
MS. MAUREEN WOZNIAK (via phone)
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544,
on behalf of Illinois EPA.

Page 3

DEPOSITION OF
BRITT E. WENZEL
Taken: October 17, 2013

Page 4

BRITT E. WENZEL,
called as a witness herein, having been first duly sworn, was examined upon oral interrogatories and testified as follows:

EXAMINATION
by Ms. Tikalsky:

Q This is the discovery deposition of Britt Wenzel in the matter of People versus NACME Steel Processing, LLC, being taken pursuant to due notice given, the Illinois Pollution Control Board rules, the Illinois Supreme Court rules, and the Illinois rules of Civil Procedure.

Exhibit 1 is the notice of deposition, and that's all that happens with that one.

I'm going to ask you some questions to find out what you know about the facts --

A Okay.

Q -- that gives rise to this lawsuit, okay.

If you would state your name and spell it for the record.

A Sure, my name is Britt Ervine Wenzel, B-R-I-T-T, E-R-V-I-N-E, W-E-N-Z-E-L.

Q Just to go through some basics here: You need to speak your answers because the court

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reporter can't interpret sign language and nods and things like that. One person needs to speak at a time because she can't document both of us if we talk at the same time, and I'll remain cognizant of that too. Sometimes you get in conversation and try to understand how things work you can get carried away. So she'll remind us -- Right?

THE COURT REPORTER: Um-hum.

MS. TIKALSKY: Q If you do not hear a question, say so; and I will repeat it. If you don't understand a question, let me know; and I'll rephrase it, come at it a different way. And if you in an earlier answer you realize later on was not as accurate as it should have been you are free to change your answer. Just let me know and I'll let you change it because sometimes as we -- your recall comes into play as we have a conversation and looking at documents and things like that, okay. So if you don't know or don't remember information to answer just say so. If you -- So I will presume that if you answer a question you've heard it, you understood it, and you answered it as accurately and to the best of

Page 6

your ability that you have, okay.
A deposition is the equivalent of testimony in court, so you understand that that's important.
Are there any physical issues that would prevent you from remembering things or telling the truth?
A No.
Q You haven't had -- there's no medication, no alcohol, or drugs --
A No.
Q -- that would inhibit those issues? Okay.
At the end the court reporter types up -- she's recording everything -- and your counsel will likely reserve the right to review it and you can make changes. The changes are spelling errors, things like that. You can't actually change an answer when you review it later on, the transcript. So you, if you need to change an answer you need to do it during the deposition, okay.
Have you ever been deposed before?
A Once.

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Q And how long ago?
A Over a decade ago.
Q Okay, and was it in your capacity of work?
A Yes.
Q And what type of deposition was it?
A It was more related to a property transaction.
Q Okay, so it wasn't related to air --
A No, it was not.
Q -- pollution or an issuance of a permit or anything like that? Okay.
Did anyone help you prepare for your deposition today?
A Yes.
Q And who was that?
A Mr. Walsh.
Q Anyone else?
A No.
Q Did you review any documents in preparation for your deposition today?
A Yes.
Q And what documents?
A Some of the -- the initial violation response and some of the documents that we had submitted to the agency, air permits, some of the past air permits, also some of the exhibits.

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Q Which exhibits?
A The air permits, stuff like that where it was part of the exhibits.
Q Exhibits of today's deposition or earlier depositions that Mr. Walsh took?
A Today's.
Q I want to start out going through a little bit of your background, education. Where did you go to school post high school?
A Northern Illinois University.
Q Okay, and did you get a degree?
A Yes, in biological sciences.
Q And what type of degree, bachelor of science?
A Biological.
Q Biological --
A Science.
Q -- science?
A Yes.
Q So that doesn't relate to a B.S. or a B.A.?

Page 9

A A B.S.
Q Any post college?
A Yes, University of Wisconsin, I took courses for environmental auditing. So I became a certified environmental auditor and registered environmental manager. And that would have been in the mid-nineties.
I also had training through the U.S. Fish and Wildlife Service with regards to wildlife habitat management and wetland delineations and the U.S. Department of Agriculture in soil sciences.
Q The courses as the environmental auditor and registered environmental manager, what types of coursework, what kinds of information --
A Sure. Well, basically, went over federal regulations, you know, went through everything from waste management to, you know, air permitting and how to audit plants, facilities for compliance with those types of regulations, even got into polychlorinated biphenyl regulations and TSCA, Toxic Substance Control Act, import and export of chemicals.
Q T-S-C-A.

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And was there any other like training in relation to NESHAPS, toxic air?
A I am an ERMS account officer, Emission Reduction Market System, E-R-M-S. Basically, I received training through the Illinois EPA on that.
Q And when was that?
A Mid-nineties. I apologize, I don't know the exact date.
Q When did you graduate from Northern Illinois University?
A 1988.
Q Professional certifications, licenses -- the registered environmental manager is that a national or --
A Yes, it's a national license. I'm no longer up to date on that.
Q Okay, and environmental auditor was that a certificated license?
A It's a license, and I still haven't kept that up to date either.
Q Any other current licenses?
A No.
Q Certifications?

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A No.
Q Do you belong to any professional organizations?
A No.
Q Then moving onto your current occupation, what is it that you currently do, your title?
A I'm director of the Environmental Health and Safety for Mostardi Platt. I manage the Environmental Health and Safety Compliance Group of 12 professionals.
Q And how long have you had that position?
A Approximately, two years.
Q And what did you do before that?
A I was a manager of the Environmental Health and Safety Group. It is, essentially, the same position, just with a different title.
Q Reorganization?
A Pardon me?
Q Reorganization -- it's the same, just new title?
A Yeah, we just started -- we consolidate, you know, different groups a little bit; and so more people would have came underneath me that would report to me or I'd be their supervisor, so

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they just changed the position title.
Q And how long were you manager?
A Approximately, six years.
Q And did you hold any other positions?
A Senior project manager.
Q And how long did you do that?
A Approximately, two, three years. Project manager before that, and I don't recall how long I was a project manager for that. And then I believe I started out as a staff technician.
Q When did you begin working with at Mostardi Platt?
A 1993.
Q So with NACME how long have you been contracted with NACME to provide the environmental --
A Since, approximately, mid-2000.
Q And is that just you, not Mostardi Platt, that you've been involved --
A No, it would have been other individuals that would have performed work per NACME.
Q Okay, but you would not necessarily have been aware of that work or you've reviewed the files prior to --

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MR. WALSH: I'd object to form.
MS. TIKALSKY: Q You can go ahead and answer. Do you understand it?
THE WITNESS: A Can you rephrase it?
Q Sure. Did you review the file, the NACME file, prior to the -- participating in work for them?
MR. WALSH: Same objection.
THE WITNESS: A I'm not sure I understand what you mean.
MS. TIKALSKY: Q How long has Mostardi Platt provided services for NACME?
A As far as I'm aware that is about the same time, mid-2000.
Q And what position did you hold when you were providing services to NACME, which one of the positions did you start with?
A Project manager, possibly senior project manager.
Q And at Mostardi Platt what do you do for them as the project -- senior project manager.
A I would, basically, oversee some projects, be the -- act as a project manager for some of the projects, and that is pretty much

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what I did.
Q What types of projects?
A It can be anything from waste management consulting, performing compliance audits, doing air permitting projects, spill planning, could have been waste water permitting, about the full gambit of the environmental stuff.
I also get involved in health and safety, so it might have been indoor air quality type of monitoring or safety reviews and audits; and I participated in the violation negotiations for my clients, response activities, agency liaison.
Q Anything else?
A I think that sums it up.
Q So you have experience working with the Illinois EPA?
A Yes.
Q What positions did you hold before you started at Mostardi Platt?
A I was a staff technician for Rust Environment and Infrastructure.
Q What did that involve?
A I performed compliance audits and

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developed environmental management systems for waste disposal facilities.
I also did wetland delineation.
Q Anything related to air?
A Some, minor. I got involved in more of the air quality on the exposure side.
Q Can you give me examples?
A For a hazardous waste landfill, you know, I would have been involved in projects that were determining whether there was any pollutants in the ambient air that could impact the local population or people.
Q So with Mostardi Platt, just to return to that, in the air work that you've done what types of air permits facilities -- I guess I better say what type of facilities have you worked with?
A Printing, steel pickling, candy manufacturing, flavor, plating, bakeries, welding, metal fabricating, landfills -- I'm sure there's more.
Q Right -- "Plating" like coating?
A Yeah, hard chrome plating or copper plating, metal coating operations -- bag manufacturers.

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Q Do you have -- does Mostardi Platt have like a contract that they execute with NACME or National Material?
A We, typically, operate on a time and materials basis. I don't believe we've entered into a formal liaison going consultations contract.
Q Would it be fair to say that it's as needed?
A Correct.
Q So if NACME or a company -- or NACME would receive something from the Illinois EPA and just send it to you, anticipating that you would just --
A Well, in some instances --
Q Um-hum.
A -- you know, I don't know if they send me everything.
Q Um-hum.
A You know, I just get involved when they've indicated that they need assistance.
Q Okay, so if there was just some kind of letter from the Illinois EPA out of the blue they would not necessarily just send it right to you?

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MR. WALSH: Object for lack of foundation.
MS. TIKALSKY: Q You can answer.
THE WITNESS: A I don't know the answer to that question.
Q If you know, if -- when you do work for Mostardi for NACME whether it's NACME that hires you or National Material?
A Well, I have contact with the NACME personnel. That's about all I can answer that.
Q Have you published any articles, professional articles or --
A Yes, I've published proactively managing environmental compliance; and I gave a presentation at the Air and Waste Management Association a number of years ago. I don't recall exactly when. That was done in Nashville, Tennessee.
Q Do you recall where your publication was published and the year?
A I'm not positively sure but I want to -- 1998. I'm not positive of that.
Q Do you know what publication?
A It was Air and Waste Management Association. So it was their annual conference.

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Q All right. I'm going to move on and just talk about some of the Illinois -- the Illinois air permitting process. Can you just tell me from your -- your knowledge explain the general process that you go through when you apply for a air permit for a company.

A Are you including just the paperwork filing or --

Q From the -- from the first step that you're notified that they need, a company is thinking they need an air permit --

A Sure --

Q -- and they come to --

A Well, first I question them on what their proposed activities are to, first of all, determine what they're proposing is even subject to permitting requirements, in other words, is it a regulated pollutant; and then after we clear that we discuss, you know, what their anticipated realm of current uses are, the process and what the raw materials are and what's in the raw materials. We discuss the types of process rates and the activities they want to perform, you know, with their objective, what are they going

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to produce from that; and then, if they already have a permit, I typically contact the permit engineer as listed on the permit to discuss the proposed project with them and, you know, and kind of gain a little bit of understanding of how they want the application process, you know, will work for them, with regards to applying for a permit. And I typically request a -- complete a construction permit application based upon my conversations with how the permit engineer would suggest that we proceed forward. I like to do that because I like to make the Illinois EPA aware of what we're doing with regards to that; and then we would, basically, complete the application and submit it to the agency.

Q And you talk about a construction permit, submitting a construction permit. Is that the application you're talking about?

A Yeah. There's also times when you're also submitting operating permit applications. It depends on the specific project that we're involved in.

Q With the air permit what -- can you explain the process of determining what the

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admissions will be or how you --

A Sure --

Q -- address that?

A Sure. I'm sorry, I didn't mean to interrupt you. It can be a mass balance equation; it can be through established emission factors; it can be through actual measurement of an emissions from a source.

Q You talk about measurement of a source. What exactly are you referring to?

A Well, stack testing.

Q And then emissions factors?

A Yes, there's established AP 42 emission factors for various types of operations that's established by the, you know, the database maintained by the US EPA, AP 42.

There's also a fire database that has other emission factors that are available.

Q And then mass balance, you said formula?

A Yes, you know, what goes in. Typically, that is used when you have coatings or inks or something like that, solvents in them where you're drying the entire liquid substrate, so you know that everything's being emitted to the

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atmosphere so you can accurately count the emissions.

Q Do you get involved with any recommendations of emissions equipment or a unit?

A Somewhat. But what I typically do is there's companies that are, you know, design and sell those, so I have resources and contacts where I would point my client into the direction where they -- they're the experts of this equipment, contact them to discuss that.

Q With stack tests can you tell me is it necessarily required to do a stack test in order to determine emissions, actual emissions type --

A Can you rephrase that a little bit?

MR. WALSH: I'm going to object to form.

MR. GRANT: He beat you to it.

MS. TIKALSKY: Q When would you use a stack test for?

THE WITNESS: A Well, if I did not -- it depends on the circumstances, of course, and all the little nuances in a project; but, generally, if mass balance equations didn't work and emission factors were not available or if the factors that were available were what I consider

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conservative or exceedingly high and did not really match what the actual emissions from a process are.

Q And when you complete an application for a construction permit what would be the purpose for applying for a construction permit?

A Well, if you have a source of regulated pollutants you're required to obtain a construction permit, unless there's a specific exemption for that source. So prior to construction of that source you would need to apply and obtain a construction permit from the Illinois EPA.

Q What other reasons would a construction permit be necessary?

A If -- if you wanted to modify your existing source.

Q What are some examples of modification?

A You could add an additional unit to a printing press, you could maybe add an emission control unit, you could increase or want to increase your throughput.

THE COURT REPORTER: "Your" what, I'm sorry?

THE WITNESS: Your throughput, material

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throughput. It would depend on the, you know, situation.

MS. TIKALSKY: Q Is there anything else that you might need a construction permit too?

THE WITNESS: A Not that I can think of right now.

Q Does a company need a construction permit to do a stack test?

A No.

Q Are there situations in which they would need a construction permit to do a stack test?

A No, not that I'm aware of.

Q So if they were going to increase what their current permit allows for throughput of material --

THE COURT REPORTER: I'm sorry, I coughed and couldn't hear -- "to increase what their current permit" --

MS. TIKALSKY: Material throughput -- they -- and if that part's the stack test.

THE WITNESS: A Can you rephrase that? I'm a little mixed up.

Q So they want to do a stack test to show emissions based on an increased throughput of

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their current operating permit would they need a construction permit for that?

MR. WALSH: Object to form.

THE WITNESS: A I'm not sure I understand the question.

MS. TIKALSKY: Q Okay. Well, let's say there's -- they have an operating permit, they have a limit of how much material they can throughput. Is that a reasonable assumption about an operating permit limit -- might be this material throughput?

MR. WALSH: Same objection.

THE WITNESS: A I'm still -- I --

MS. TIKALSKY: Q Okay --

A -- I still, I still don't --

Q So operating permits --

A Okay.

Q -- what limitations are set in an operating permit?

A Well, it could be a number of different things.

Q And what would that be?

A It could be material throughput, operating hours, emissions, levels and rates.

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Q So it's throughput, they have a limit of how much throughput?

A Not all permits.

Q Right, but this operating permit does?

A What --

Q If it does.

A -- operating permit?

MR. WALSH: Object to form.

THE WITNESS: Which --

MS. TIKALSKY: Q Okay, an operating permit has a limit on a throughput, material throughput, they have a limit?

THE WITNESS: A Some do; some don't.

Q Right. If they do have a limit and they want to operate higher than that limit --

A Okay.

Q -- okay -- how would they go about getting a permit to allow them to do that?

A If they wanted to increase? I apologize, still I'm not sure I quite understand your question.

Q Okay. If their operating permit has a throughput limit and they want to increase that throughput limit, what do they need to do?

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A They would typically need to, if they want to increase it, apply to obtain an increase if the permit has a limitation in it.
Q Okay, so they just -- what would they do, do an application for an operating permit, application for a construction permit, what would they need to do?
A Well, you do a construction permit application or a permit modification request.
Q Okay.
A I've seen the agency approach it two different ways.
Q All right. And what would the construction permit, what would be the purpose of that?
A What would be purpose of a construction permit application?
Q Right.
A I'm not sure -- I guess it would be to request an increase in your throughputs.
Q And what's required in the construction permit to make that request?
A Nothing's required in the construction permit to make the request. It's in the

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regulations.
Q Okay, so if -- so how would you determine what their emissions would be in a situation like that?
A It all depends on the situation. You could use emission factors. You could use regulatory limits. You could use mass balance equation. There's a number of different ways.
Q Is it possible you would do a stack test?
MR. WALSH: Object to the form.
THE WITNESS: A In some instances. It depends on the situation you were in and whether other ways to calculate emissions are available.
MS. TIKALSKY: Q So stack test isn't an option?
A Could you please say that again.
Q So, in response, you're stating a stack test is not an option --
MR. WALSH: Object, mischaracterizes his testimony.
MS. TIKALSKY: Q -- for the material throughput?
THE WITNESS: A I did not say that.
Q Okay, what did you say?

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A I said it's one of the options.
Q Okay, thank you.
When -- when a construction permit is submitted do you have any involvement implementing that permit? Would you have involvement?
MR. WALSH: Object to form.
THE WITNESS: A What do you mean by "implementing"?
MS. TIKALSKY: Q Well, when a company gets a construction permit what do they do?
MR. WALSH: Same objection.
THE WITNESS: A Well, they would start constructing their source --
MS. TIKALSKY: Q And would you have any involvement --
A -- under normal circumstances.
No, I typically do not get involved in their construction activities on-site.
Q When a company has an operating permit and they want to make some revisions to it what's the process with the Illinois air permit?
A Well, what's the process that I would -- I use?

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Q Yes.
A The first thing I always do is contact the permit engineer to discuss the process with him. Then we typically file for a modification request or a construction permit application, depending on how the permit engineer responds to questions about the permit.
Q What form does the modification request take?
A Well, it's -- you're filling out the paperwork, the forms.
Q It's not just a letter that requests --
A No, typically, you're filling out forms also with a paperwork exercise.
Q For air permits what types of air permits could you tell me exist with the Illinois --
MR. WALSH: Object to form.
THE WITNESS: A What do you mean, exist with the Illinois EPA --
MS. TIKALSKY: Q Yeah, the Illinois Environmental Protection Act, what types of permits.
A A construction permit, there's a lifetime operating permit, I've seen operating permits,

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there's Federally Enforceable State Operating Permits, or FESOPs, and there's Title Five permits.

Q And would you -- Title Five permits also referred to cap permits?

A I've seen it used in that sense.

Q And is a Federally Enforceable State Operating Permit -- what application do you fill out?

A Well, I've seen it done numerous ways. There's certain forms that you can use. I've done it both ways using standard APC forms or the cap forms.

Q What's a standard APC form?

A It's just a form that requests company information, process information; it could be another form that requests process information; it could be, you know, a form -- there's that APC form that requires you to provide ownership information.

Q And what's your understanding about the Federally Enforceable State Operating Permit program, is that -- I guess just to talk about that -- is that under the Title Five program?

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A Well, I look as at it as under the entire permitting program.

Q Well, I -- You said there were several different kinds of permits, the construction permit, the lifetime operating permit, sometimes operating permits, then there's the Title Five and there's the FESOP. So I would consider that the entire -- I would consider that all the permitting programs; but there are subsets.

MR. WALSH: Okay, I'm going to object to that. You're testifying. I also object to the extent it calls for a legal conclusion.

THE WITNESS: A I guess -- I'm not a lawyer -- I don't get into the legal aspects of all of that.

MS. TIKALSKY: Q For a Federally Enforceable State Operating Permit what kind of documentation for emissions control is required?

A

MR. WALSH: Object to form.

THE WITNESS: A Typically, you provide raw material usage and emission calculations.

Q What types of emissions calculations?

A What you're proposing to do.

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Q Would you say controlled emissions?

A In some instances.

Q And uncontrolled emissions?

A And others, potentially.

Q Are you aware of the term potential to emit?

A Yes.

Q Okay, is that a form of emissions?

A The potential to emit? I'm not sure I understand the question.

Q Is that a potential to emit, a facility's potential to emit what does that mean?

A It means, basically, the potential of an emission source to comit pollutants at its maximum capacity and design. Limitations on operating hours or throughput capacity can be incorporated of potential to emit if they're federally enforceable.

Q What does that mean, "federally enforceable"?

A To my understanding it's having limitations on your operations in a permit.

Q And when you say the maximum is that seven days a week, 24 hours a day, 52 weeks a

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year?

A Not necessarily.

Q Can it be?

A It can be, but in many instances it's not.

Q Okay, and what do you have to show -- do you have to show the Illinois EPA something to show that it's not?

A For initial permitting I find that they require you to have that; but subsequent permitting after the determination has been made, typically, I've done permit applications that are not provided potential to emit calculations and just proposed emissions.

Q When you do lifetime operating permit applications do you provide a potential to emit calculation?

A For the initial permitting, yes.

Q Are there any other -- well, with the lifetime it's a lifetime?

A Yeah, unless they decide that they want to add a new piece of equipment and there'd be initial permitting for that piece of equipment.

Q And so you would not need to do a P-T

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calculation for that revision?
A I think a lot of it would depend on -- well, if it's a new piece of equipment or a new emission unit you should -- would provide that; but if it's just something that's not going to involve, you know, changes in raw materials or something, you've already permitted that and -- that unit, so I've worked it both ways where the permit engineers have not requested or required me to submit a potential to emit calculations.
Q So, for an example, if the materials throughput was, that was something that they wanted to revise, that was -- is that an example of something where you might not have to provide the PTE calculations?
A Well, I guess it, in my understanding, it depends on the type of what you're doing. If it's not going to result in additional emissions or if you've already established your potential to emit in the process in previous permitting you may not provide that that time. That's why I try to work with the permit engineers pretty closely in all my permitting processes to make sure I provide them exactly what they need to process

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the permit.
Q And when we, just to clarify, when we talk about potential to emit that's uncontrolled emissions?
A Not always.
Q When is it a situation when it's not uncontrolled?
A Well, if you have a control device that's integral to the operation of the process then the potential to emit can be calculated after control.
Q What determines if a unit is integral, emissions unit is integral to the project?
MR. WALSH: I'm going to object. It calls for a legal conclusion.
THE WITNESS: A Yeah, I'm not -- I think it varies, depending on different circumstances and the use, the type of process, and the type of control device. It's -- every case is different.
MS. TIKALSKY: Q So in a situation like you just described would actual emissions be the same as the potential to emit?
A Which situation are we talking about?
Q Where the emissions unit is integral to

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the process.
A And can you just please rephrase it for me?
Q Well, where -- a situation where the emissions unit is integral to the process.
A You mean the control device is integral to the process?
Q Yes, the control device.
A Yes, it could -- potential to emit can be calculated after control in certain instances where it's integral to the operation of the equipment.
Q So that could be the actual emissions as well?
A Yes.
MR. WALSH: Can we take a short break?
MR. GRANT: Sure.
(WHEREUPON, a short break was held)
MS. TIKALSKY: Q Just to move directly into your, some of the work you've done for NACME, you stated that about mid-2000 is when you began and Mostardi Platt began working with --
THE WITNESS: A Yeah, I'm not sure Mostardi Platt per se -- But me.

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Q Okay, what kinds of services have you provided NACME?
A Sure, spill planning, air permitting, hazardous waste management, all of the reporting, associated reporting activities, determination of whether they're subject to storm water permitting, and so general environmental compliance. We've also got involved somewhat on the safety aspect with regards to personal protective equipment and those kind of activities.
Q Anything else?
A I did work with the initial violation, 2000 violation notice; and that was more in the capacity of responding to requests for information.
Q And that was the Illinois EPA that had requested information?
A Correct.
Q And what was the initial violation?
A If I recall, it had to do with -- there were a couple things that had to do with an alleged emission exceedance and a support facility issue.

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Q The support facility you're referencing that relationship with NACME?
A Yes, I believe that was it.
Q With air do you set up any of the stack tests?
A What do you mean "set up"?
Q Do you organize?
A We have a group within our company that that's what they do, and they pretty much set up the stack testing programs and perform the stack testing.
Q And have they done that for NACME?
A Yes.
Q Do you know what years they've done?
A I know we've done one in 2002, 2006, 2011 for determining emissions rates, how the exhaust stack. We have done diagnostic-type testing to just ensure that the scrubber was operating properly, the emission control device recently, relatively recently, I believe it was 2012.
Q So there's different kinds of stack tests?
A Yes.
Q And the difference between is the

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purpose?
A Correct.
Q Are there different procedures that also go in, fall into place?
A Yes, there are.
Q Were you aware of one in 2013 in April?
A That might be the one I was thinking was, that was 2012.
Q So would you say that was an emissions study?
A It was more of a diagnostic test to make sure the scrubber was operating properly. There's other issues with regards to just emissions, emission of pollutants to the atmosphere. There's also, as I had indicated before, I had Assistant Safety and Health, and there's other concerns that the facility has to deal with and sometimes we want to make sure that the equipment is operating properly in that context.
Q What would be some of those other concerns?
A Employee exposure, employee safety.
Q Do you, when Illinois EPA does, has done

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inspections, have you ever been present?
A Unfortunately, no.
Q And when they -- Sometimes I know when they do stack tests you notify Illinois EPA. Is that something you do?
A It depends, sometimes I do and sometimes I don't. It's conducted by the client, and that's really a call of the client.
Q When they do stack tests are you present at the facility?
A Sometimes I am; sometimes I'm not. In the instance of NACME, no, I have not been.
Q When you talk about air do you -- have you completed applications for NACME, is that what you said?
A I'm not sure what you mean there.
Q For the air applications, for the air permit applications have you completed them for NACME?
A For construction or operating or --
Q Any kind.
A I've done the FESOP renewal I worked on with Mr. Brodsky. I've done construction permit

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requests for them.
Q Do you remember which construction permit request?
A I know I did an initial one back -- or I shouldn't say an initial -- one in 2000, and I -- for 2005.
Q In the 2000 construction permit was that a joint construction operating permit?
A I don't recall.
Q Were you involved with the 2012 construction permit?
A Yes.
Q When you complete a permit do you, do you do the PTE calculations or --
A In some instances --
MR. WALSH: Object to form.
THE WITNESS: Can you rephrase it, please.
MS. TIKALSKY: Q You were answering it fine.
A Not for all permit applications, no, I do not.
Q Do you, for the 2012 do you remember if you did a PTE calculation?
A I do not recall.

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Q In 2000 when you did the construction permit do you remember doing a PTE calculation?
A At that time I do not believe I did.
Q What about the renewal application in 2005?
A I believe I did at that time.
Q I'm going provide the 2012 construction permit application, particular pages on this -- you want to --
THE COURT REPORTER: Do you want me to mark this?
MS. TIKALSKY: 2, right?
THE COURT REPORTER: Exhibit 2?
MS. TIKALSKY: Yeah. Because Exhibit 1 was the notice of --
THE COURT REPORTER: Okay, because I don't have anything marked.
MR. WALSH: Oh, previously marked exhibit --
MS. TIKALSKY: Oh, previously marked -- I think this should be Number 1 for this deposition.
MR. GRANT: If you want, I'll go print it out, another copy of the --
MS. TIKALSKY: Yeah, would you. Thanks.

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MR. WALSH: I'm sorry, I'm confused now. What are you saying?
MR. GRANT: Well, there's two notices, one for his --
MR. WALSH: Yeah.
MR. GRANT: -- and one for John's.
MR. WALSH: Yeah.
MR. GRANT: And so Number 1 in John's dep was that notice for his deposition -- because the second one for him, that I can just print out, I mean it's --
MR. WALSH: And make it Exhibit 1 you mean?
MR. GRANT: Yeah, right.
MR. WALSH: Yeah, that's fine. I don't care how you do it. I just want the record to be --
MS. TIKALSKY: It's right here if you want a copy of it.
MR. GRANT: Sure.
THE COURT REPORTER: So I'm marking this one 2.
(document marked as requested)
MS. TIKALSKY: Q Okay, I'm showing you what is the pages of the Air Emission Source Construction Permit Application --

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MR. WALSH: Are we calling this Exhibit 2?
THE WITNESS: Yes.
MR. WALSH: Okay, thank you.
MS. TIKALSKY: Q -- February 11th, 2012.
MR. WALSH: Okay, and I'll just state for the record that this is not a complete copy of the 2012 document.
MS. TIKALSKY: Q Do you recognize this document?
THE WITNESS: A Yes.
(Mr. Grant handed a document to reporter)
THE COURT REPORTER: I'll mark this one now 1.
MS. TIKALSKY: Thank you.
(document marked as requested)
MS. TIKALSKY: Q Turn to page, application page 32. Is there -- H-C-L is hydrochloride --
MR. WALSH: I'm sorry, where are you, Nancy?
MS. TIKALSKY: At Section page 32.
MR. WALSH: Page 32. Okay, thank you.
MS. TIKALSKY: Okay.
Q In the left column near the bottom it says "other, specify" and it says "HCL"?
THE WITNESS: A Yes.

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Q What does HCL mean?
A Hydrochloric.
Q Acid?
A Yes.
Q And there's numbers in the columns. Pounds per hour, what does that reflect?
A That reflects the hourly emission rate.
Q Is that actual emission rate?
A In this instance?
Q Yes.
A It's -- yes.
Q Is that of controlled --
A After controlled.
Q -- after it's been through the control?
A After control.
Q Okay, and so -- the number reflected is .0004, is that correct?
A Yes.
Q And then in the second column next to it, there's number .44 tons per year?
A Yes.
Q And that also reflects the actual emission rate after control?
A Not necessarily. That's a de minimis

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level, the .44.
Q Okay, can you explain that?
A Typically, emissions less than that level the agency doesn't really get down to those -- below those levels. So in a lot of the air permits that I review that have been issued they, basically, put it at that limit when they're listing limitations in permits.
Q So this is limits you anticipate in your permit?
A Yes.
Q And then I'd like you to turn to page, application page 35. It has very tiny writing. At the top it says "Exhibit 260-1, HCL Pickling Line Emission Calculations". Do you see that?
A Yes.
Q And then there's like an open bar that says, "operating conditions, process data"?
A Yes.
Q Do you see that? And then below that there's another open bar, it says "potential to emit"?
A Yes.
Q Okay, what does that mean in particular

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for this document?
A That means potential emissions prior to control.
Q It says -- Can you explain just below that what the -- that's the formula or calculations that you're using?
A Yes, it is, basically, taking -- using the 2006 stack test results of the .0004 pounds an hour, that is converted into pounds of HCL emissions for ton of steel throughput, and that's divided by the control efficiency or anticipated control efficiency of the oxidite or the scrubber, and then you multiply that by the maximum number of tons of steel that can be through -- put through the process.
Q And what is your control efficiency?
A I'm sorry?
Q What is the control efficiency -- you said the .99 --
A It's assumed to be --
Q -- one minus --
A Yeah -- assumed to be 99% control. It's not measured during the stack test.
Q Okay, do you see that there's a paren one

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minus --
A Yes.
Q -- 0.99?
A Yes.
Q Is that a mathematical --
A Well, no, it's basically you're just divide -- yeah, it's a mathematical equation. You're just, basically -- one represents 100% control.
Q Right.
A You're subtracting the 99% control; and you're, basically, using that remainder to calculate the potential emissions based upon the emission rate.
Q So potential to emit after control?
A No, that's before control.
Q Well, if your control efficiency is 99%, you go 100% minus 99% point 0 --
A No, you're dividing by 0.1. You're not multiplying it.
Q But isn't 0.1 the controlled emissions rate?
A Yes, that's why you're dividing it to back-calculate the uncontrolled emissions rate.

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If I was going to calculate the controlled emissions rate I would multiply it.
Q Okay, thank you.
Maybe you can keep them near him in case he needs to use them again.
This is to be marked Exhibit 3.
(document marked as requested)
MS. TIKALSKY: Q What I've handed you is dated March 30th, 2005, Application for Renewal of Federally Enforceable State Operating Permit. Do you recognize this document?
THE WITNESS: A Yes.
MR. WALSH: Again, I'll note for the record it's not a complete document.
MS. TIKALSKY: Q It says "renewal" for the Federally Enforceable State Operating Permit. Was your current permit a federal re-enforceable state operating permit?
MR. WALSH: Object to form.
THE WITNESS: A It had limitations, restricted emissions from the site.
Q Do lifetime operating permits have restrictions on emissions?
MR. WALSH: Same objection.

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THE WITNESS: A Not all the time.
MS. TIKALSKY: Q Can they?
A In some instances.
MS. TIKALSKY: I'd like to mark this Exhibit Number 4.
(document marked as requested)
MS. TIKALSKY: Q I'm showing you what is called Operating Permit - Revised, issued February 8th, 2001. Do you recognize this document?
THE WITNESS: A Yes.
Q Can you tell me what kind -- what this document is?
A It's a permit, an air permit.
Q For who?
A NACME Steel Processing it says.
Q Okay. And do you note the expiration date?
A Yes.
Q What does it say?
A October 25th, 2005.
Q Okay. And does this document have emission limitations?
A Yes.

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Q Is this the Title Five document?
MR. WALSH: I'm going to object. The document speaks for itself.
THE WITNESS: A I don't know.
MS. TIKALSKY: Q When you look at it does it appear to be a Title Five document?
MR. WALSH: Object to form.
THE WITNESS: A With limitations on it, yes, it appears to be a type of permit that would be issued as a FESOP.
MS. TIKALSKY: Q I'll have you turn to page -- it says way at the lower right corner "NMLP 1251". At the stop it says "Standard Conditions for Operating Permit".
A Yes.
Q Is it possible that this is a state operating permit?
MR. WALSH: Object to form.
THE WITNESS: A I'm not sure what -- I understand what the question is. Is it an air permit, yes. Is it an operating permit, yes.
MS. TIKALSKY: Q An operating permit for air emissions, correct?
A Correct.

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Q Earlier you explained that there are different kinds of operating permits, there's lifetime operating permits. Is this a lifetime operating permit?
A It does not look like one.
Q And then operating permits, which this one has an expiration date?
A It's consistent with both different types of permits I've seen, such as a FESOP or an operating permit. I can't really say which one. It could be either.
Q Did you review this document when you did the renewal for the --
A I don't recall.
Q -- FESOP --
And item number two on this document, the operation and hydrogen chloride HDL emissions from the pickling line shall not exceed the following limits, it has steel throughput, emission factor, and HCL emission. Do you see that?
A Yes.
Q Could you state what the HCL emissions factor is?

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MR. WALSH: Object to form.
THE WITNESS: A What do you mean state what it is?
MS. TIKALSKY: Q Could you read it?
A It says the emission factor is 4.8 pounds per thousand tons.
Q And then the HCL emission, the third column, tons per year?
A 1.4.
Q And is that after control?
A It would have to be.
MS. TIKALSKY: Okay, I'm marking Exhibit 5.
(document marked as requested)
MS. TIKALSKY: Q I'm showing you what is titled the Air Emissions Source Operating Permit Revision Application dated April 11th, 2002. Do you recognize this document?
THE WITNESS: A I'm not finished reviewing it.
Yes.
Q We'll make a qualification. I'm not sure if it's the entire document or not. It's a good share of it. And I would like you to turn to what is page four, it states on the bottom

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at -- you see the item numbers are numbered -- number 12?
A Um-hum.
Q Would you look at number 12.
A Yes.
Q Is that what's used for this application in determining the maximum operating time of emission source?
MR. WALSH: I'm going to object. The document speaks for itself. You're mischaracterizing the question.
THE WITNESS: A It appears so, based upon the calculation.
MS. TIKALSKY: Q Okay. And it's based on 24 hours a day, seven days a week, 52 weeks a year, is that correct?
A Yes.
Q On page 11, under the number 11 where it says "efficiency of scrubber" --
A Yes.
Q -- is gaseous -- what would be the HCL factor?
A That would be particulate.
Q What would the gaseous be for?

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A That could be just -- you've got moisture and other types of air flow.
Q And it states 99.90%?
A That's what it states.
Q And then if you would turn to what is IEPA FOIA 0385 page at the bottom on the right side of the page, It says the emission calculation.
A Yes.
Q It says "4.8 pounds of HCL per ton steel processed". What does that mean?
A Basically, to me looking at it it looks like a typo. Should be for per thousand tons processed. If you look above, the permit emission factor, meaning that 4.8 pounds of HCL are emitted per -- it should be thousand tons of steel processed.
Q Okay. Wait, it also says "current permitting emission factor, scrubber control".
A Yes. What about it?
Q It says .0048 pounds HCL per thousand tons steel processed?
A Yes.
Q Does that comport with the current

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permitted emission factor, no control?
A Are you talking about the February 2001 operating permit; is that what we just looked at?
Q I was just trying to understand these numbers --
A Sure --
Q -- 4.8 pounds HCL per ton of steel processed.
A That is the factor on this February 2001 permit you showed me. It does not indicate whether this factor is before or after control.
Q Right. And on this calculation sheet there is, parenthesis, it says, "(no control)" and in parenthesis it says "(scrubber control)"?
A Correct.
Q Could you explain what each of those mean?
A Sure. The -- after -- no control, that emission factor, it appears that basically is taking that 4.8 pounds -- again, it looks like a typo to me -- a thousand tons of steel processed, okay, and saying that's uncontrolled emission rate. You would take a factor of 99% control over that, it's going to reduce emissions to the

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.0048.
Q On that last line it says HCL pounds per hour --
A Yes.
Q -- 3600 pounds per year. Where does the "3600" come from?
A That comes from multiplying the emission factor by 750,000 tons of steel.
Q And the results is .41 pounds of HCL per hour?
A Yes, based upon 8,760 hours year of operation.
Q And how does that calculate in tons per year?
A Well, basically, you can just turn it around, the 3,600 pounds a year. So if I were to take .41 pounds and multiply it by 8,760 that would equal 3,600 pounds.
Q So how would you figure out the maximum potential to emit?
MR. WALSH: Object to form.
THE WITNESS: A Maximum?
Q How would you calculate the PTE?
A I would take the hourly emission rate and

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provide a conservative value, I'd multiply it by the 8,760 because, typically, machines can't operate 24 hours a day, seven days a week, and it would provide a conservative estimate.

Q And to get the tons per year?

A I would just divide that number by 2000.

Q But that .41 pounds of HCL per year, per hour is controlled, correct?

A Is it? Based upon this calculation the way it works out it's based upon the 4.8 pounds HCL per ton of steel processed. That's the permitted factor here, and that doesn't say whether it's controlled or not. It's just based upon the permitted factor.

Q And where does the factor come from?

A I'm not sure. That was permitted before I believe I got involved in the permitting process.

Q Um-hum.

A So it would have been established by the Illinois EPA in the permit.

Q Is it based on an application request?

A I don't know. That was -- This is the, you know, this is the permit -- I think there

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was -- I don't know if there was or how that process or where that emission factor became established. That was before I was involved in the project or with NACME.

MS. TIKALSKY: I'd like to mark this Exhibit 6.

(document marked as requested)

MS. TIKALSKY: Counsel.

Q Do you recognize this document?

THE WITNESS: A Yes.

Q How do you recognize this document?

A I'm not sure what -- How do I recognize it? I've seen it before.

Q Okay. I'll qualify this is the Gaseous Emissions Test performed for NACME Steel Processing, LLC, dated April 16th, 2002. I'd like you to turn to what is the bottom right-hand corner "NMLP 0243". In a little chart under Summary of Results --

A Yes.

Q -- the second item, it says "HCL emission rate, pounds per hour, 0.217"?

A Yes.

Q Is that control emissions?

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A I'd like to see the rest of the stack test report.

Q Well, in the top -- at the top of the column it says "HCL Scrubber Exhaust Stack". Does that help?

A That would be after the exhaust stack, so that would be after control.

Q Okay.

A If the scrubber was operating at the time. There are times when you do stack testing where the control device may not be in operation.

Q Um-hum.

A Do you have the rest of the report?

Q I don't think I have that.

Do you recall with the 2005 application if it was based on this stack test?

A No, I don't recall.

MS. TIKALSKY: Exhibit 7.

(document marked)

MS. TIKALSKY: Q I'll have you look at -- this is just to say Renewal Application, Federally Enforceable State Operating Permit, dated October 18th, 2005; and the third last page is numbered "NMLP 0291" on the bottom right.

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MR. WALSH: I'm sorry, what page did you say?

MS. TIKALSKY: NMLP 291.

MR. WALSH: Okay, I thought you said very last page.

MS. TIKALSKY: Third one.

MR. WALSH: Okay, thanks.

MS. TIKALSKY: Q In the left column near the bottom it says, "other, specified HCL"; do you see that.

THE WITNESS: A Yes, ma'am.

Q And then it says "maximum"?

A Yes.

Q And that's in the pounds per hour column, it says "4.34"?

A Yes.

Q What does that represent?

A It appears to be the hourly emission rate of HCL.

Q Okay, and at the top of that second column it has an uncontrolled emission rate box --

A Yes.

Q -- with an X in it? And a super one there that says, "check uncontrolled emission

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rate box if control equipment is used"?
A Yes, I see it.
Q Okay, so this is what the emission rate is when the controlled equipment is in place?
A I don't think necessarily, no.
Q Why not?
A Because I'm not sure exactly what that rate is based on.
Q So they may have checked the wrong box?
A I don't know that.
Q From the document here what would, if you were reading this document, how would you understand it?
MR. WALSH: Object, calls for speculation.
THE WITNESS: A Well, I guess there's two ways I could look at this. I looked at the emission factor over on the right at .0065 or the pounds per hour; and there I don't know if -- whether they've assumed 24-hour operation or they put there's limitations on operations. As I discussed earlier, you cannot operate a piece of equipment 24 hours a day, seven days a week, typically. There's maintenance activities and other things or 365 days a year that you have to

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perform on that.
Q So at the top -- you were looking at the far right column where it says ".0065" pounds per HCL per ton of steel?
A Yes.
Q Does that mean that the rate for the steel throughput, the amount of steel throughput?
A It could be. You know, I don't see any other data.
Q And the next column over it says ".951" tons per year under the permitted emission rate?
A Yes, I see it.
Q Is that the tons per year emission rate of HCL after control?
A Well, I see permitted emission rate. It doesn't say --
Q Okay.
A It just says as a -- "provide the emission rate that will be used as a permit special condition".
Q So if the 4.34 were -- the pounds per hour of emissions, if the control equipment was used -- and next to it it says "19" tons per year?

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A That's what the document says.
Q All right.
And you were involved in the creation of this document?
A I believe a project engineer at Mostardi Platt was named, like Karyn Andersen.
Q So what were you involved with with this renewal application?
A I'm -- I was involved with corresponding, or I should say discussing the process with Valeriy Brodsky, the permit engineer, and responding to his requests for information. And, also, discussing the permit, this permitting, the process.
Q Um-hum. Are you aware of what the potential to emit at the time of this application was for the facility?
A No, not specifically what it was. I think I would have based it upon what we were permitted for.
MR. WALSH: Nancy, can we take a short break?
MS. TIKALSKY: Sure.
(WHEREUPON, a break was held)
MS. TIKALSKY: Number 8.

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(document marked as requested)
MS. TIKALSKY: Q Do you recognize this document at all?
THE WITNESS: A Yes.
Q This is a document, a fax with pages attached, faxed cover sheet with pages attached, to the Illinois EPA, attention: Val Brodsky, B-R-O-D-S-K-Y, from it's Blythe Cozza. Do you know Blythe Cozza?
A No.
Q It's NACME Steel Processing, LLC, regarding -- it says, the Following is from the stack test the 5-97, conducted by Macro Beck, (phonetic).
And I'll have you turn to the last page, NMLP 0008, in the bottom right corner, "Field Data and Results Page, Scrubber Inlet". What does that mean?
A Based upon what it says I would guess that it's the stack going into the scrubber.
Q Is that uncontrolled emissions?
A I would guess so, if it's before the scrubber it would be uncontrolled emissions.
Q Okay. And in the, about the middle of

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the page, at Roman numeral number two, Results --
A Um-hum.
Q -- you have the HCL pounds per hour line --
A Yes.
Q -- do you see that? And in the far right column it says "average"?
A Yes.
Q It says "21.41"?
A Yep.
Q So what -- 21.41 pounds per hour, what would the tons per year of the HCL be?
A Well, if you -- I don't have a calculator to do the math -- but if you multiply it by the 8760 or the maximum operating hours that source can operate, you would have to know what the maximum source operating hours are to calculate potential to emit for that.
Q And that would be per hour and then just divide it by 2000 to get tons per year --
A Yes --
Q -- pounds per year?
A That's what's also been called is -- you don't have a lot of the supporting data to make

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sure that the stack testing -- because this is what this stuff is -- was done according to EPA procedures. There should be a lot of backup data that would, calibration records and a lot of that that you'd have to -- you know, typically you would see with this to make sure it was measured correctly in accordance with EPA methods.
MS. TIKALSKY: Okay, mark this as Exhibit 9.
(document marked as requested)
MS. TIKALSKY: Q I represent that this is the partial pages of the Hydrogen Chloride Emission Compliance Test Report dated April 1, 2011. Do you recognize the document?
THE WITNESS: A Yes.
Q I'll have you turn to page NMLP 0075. It states this is the Test Result Summaries, is that correct --
A Correct.
Q -- at the top?
And the second bar it says, Hydrogen Chloride Emissions, do you see that?
A Correct.
Q And the last column, "average under pounds per hour", do you see that?

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A Yes.
Q It says .012?
A "0.012".
Q Yes. Is that an emissions rate summary after control?
A Yes, based upon the exhaust stack, scrubber exhaust that would be after control.
Q And, again, to calculate the potential to emit based on the, what, 99.9% control?
A Well, you don't know that that scrubber's operating at that control efficiency. So, again, to get an accurate PTE you'd have to know the scrubber control efficiency at the time of the stack test.
Q Right. And that's not in any of this data here, the summary?
A I do not see it.
Q But the calculation to get the PTE would be times that 8760 maximum?
A Assuming that that was the maximum operating hours of the equipment.
Q Divided by 2000, you'd get tons per hour?
A That would be tons per year.
Q Tons per year.

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And then that would be the emission rate -- controlled emission rate, right?
A Annual?
Q Tons per year, yeah.
A That sounds right. I'm not doing the math, so I -- If you took that and you assumed that it could operate, 760, you would multiply that by that rate and divide by 2000 would give you tons per year.
Q And if I wanted to then calculate what the uncontrolled emissions were I would --
A You'd need to find out what the scrubber control efficiency was at the time of the test.
Q Right. And then I would divide that by the control efficiency?
A Well, one minus the control efficiency, right, like we discussed earlier.
Q Right.
I would like you to turn to page 10 of the document at the bottom there. There's some notes there in the lower right corner.
A Yes.
Q They're calculations?
A Could be. It could just be some -- a lot

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of times when you do calculations you're kind of running through different numbers and different stuff. I would have to -- Some of it's cut off. So it's hard to tell. Those could be notes after the fact. You don't know when they were made.

Q The -- It looks like it's an e-mail document from R. Linden. Who's "R. Linden"?

A Rosanne Linden. She's a project manager at Mostardi Platt. She would have been involved in track -- probably getting the process data to be recorded during the stack test, see the tonnage of throughput, and requesting the information.

Q You don't know whose handwriting this would be?

A This writing on the bottom is mine.

Q It is yours?

A Yes, right here.

Q And you don't recall what that was about?

A Like I said, a lot of times what I do is I try and do different numbers and come through and see what, the calculated hourly emission rate potentially for purposes of the application, like we did in the previous one where we came up with

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the .41 pounds an hour, you know, you've got to have some information that you would put in some of the application forms, so you -- it could just be some hand scratch and doing different values and numbers.

Q So the .012 appears to be, 0.012 appears to be pounds per hour of HCL emissions from the stack test and then divided by 0.01 equals 1.2, that may be the one minus 99 --

A Yes, that could be.

Q -- .9?

A Assuming, again, it's an assumption that it's 99% control.

Q Um-hum. Okay.

What time is it?

MR. GRANT: About seven minutes to 4:00.

(Mr. Tikalsky handed reporter a document)

(document marked)

MS. TIKALSKY: Okay?

THE COURT REPORTER: Um-hum.

MS. TIKALSKY: Q This is a group of documents from 2002. Do you recognize these documents?

THE WITNESS: A Yes.

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Q And the top page is "NMLP 0233" in the bottom right corner, the permit denial, dated May 16th, 2002, is that correct --

A Yes.

Q -- do you see that? Can you read the first paragraph where it says "the Illinois EPA".

A It says "We read your application for operating permit for the above referenced project. The permit application is denied because Sections 9 and 39.5 of the Illinois Environmental Protection Act and 35 Illinois Administrative Code, Section 201.160 might be violated."

Q And then the next paragraph where it says "the Illinois EPA", if you read the first sentence.

A "The Illinois EPA will be pleased to review a reapplication for this permit that includes the necessary information and documentation to correct the deficiencies noted above."

Q And in just summarizing "the condition above", is that emissions test to be performed by an approved testing service?

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MR. WALSH: I'm going to object. The document speaks for itself.

MS. TIKALSKY: Q This permit included a condition that the emission test be performed by an approved testing service, do you that in number one, the second sentence?

A Yes.

Q And then I'd like you to turn to what is document NMLP 0237 and 0238. In relation to the permit denial, this is dated May 28, 2002 letter to the Illinois EPA from NACME, Thomas Beach, vice-president, plant manager, do you recognize this letter?

A Yes.

Q Did you help write it or compose it?

A Yes.

Q And what was the purpose of this letter?

A It was to submit the stack test report to the Illinois EPA, also request incorporation of the data into an operating permit, and then also it helped to notify them that the pickling baths were going to be operated at the lower HCL concentration than originally anticipated due to a lack of business.

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Q Did an application accompany this with compliance --
A The test report, this was a -- it's my recollection that this covered a previous application, and it was a submittal of the test report for that application.
Q Is that for the application that we just read, the permit denial on NMLP 223?
A I am not sure. I don't recall exactly. There's been a couple different construction permits issued at various times.
Q Is this a denial of an operating permit or a construction permit?
A It says operating permit.
Q And this letter is a request --
A To request a submittal of the stack report and request that the information be incorporated into -- or actually it says, you know, "We are requesting the process modification be incorporated into the existing permit." So the existing permit could be the operating permit they were currently operating under.
Q But a letter like this without an application wouldn't be regarded as an

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application?
MR. WALSH: Object to form.
THE WITNESS: A That letter would have been submitted with the test report.
MS. TIKALSKY: Q Right.
A Right. But as part of the -- it could be I -- in my opinion, it could be considered part of the application because you're required to submit that as part of the application to demonstrate what you're doing.
Q Okay, when -- and going back to the permit denial, is this a dead application?
MR. WALSH: Object to form.
THE WITNESS: A What do you mean by "dead application"?
MS. TIKALSKY: Q Well, is it no longer a live application waiting for information to be submitted?
A I don't know. I think you have to ask the Illinois EPA that.
Q Well, in that second paragraph it says, "The Illinois EPA would be pleased to review a re-application for this permit". Do you see that?

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A Yes, I see that.
Q And what does that mean to you?
A Well, if we want to send in another application they'll review it.
Q Right.
A That's different than a permit being dead.
Q But they would expect another application?
A I don't know if they would expect one. They said they would review one if it's submitted.
Q And then looking at the pages 0234, 0235 and 0236, this is a Construction Permit - Revised on the first page, 0234, issued April 12th, 2002. "Permit is hereby granted to the above-designated permittee to construct emission unit and/or air pollution control equipment consisting of turbo-tunnel enclosure on the existing steel pickling line and increasing a steel processing rate as described in the above-referenced application. This permit is subject to the standard conditions attached hereto and the following special conditions". And then it goes

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1, 2, 3A, B, C, D, 4A, B, C, D, E, 5.
And number two it says, "This permit allows operation of the pickling line at the rates and operational parameters specified in condition one only for the purpose of stack testing required for Special Conditions 3." Is there anything in this construction permit that allows operating --
MR. WALSH: I'm going to object to form.
MS. TIKALSKY: Q -- under this permit?
MR. WALSH: The document speaks for itself.
THE WITNESS: A Can you rephrase the question?
MS. TIKALSKY: Q Is there anything in this -- these three pages that states it is an operating permit?
MR. WALSH: Same objection.
THE WITNESS: A Well, it says in condition two that the permit allows operation of the pickling line at the rates and operational parameters specified in condition one for the purpose of stack testing.
Q Only for the purpose of stack testing, correct?

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A Yes.
Q So would you regard this as an operating permit?
A No.
Q Okay.
(Counsel handed reporter a document)
(document marked)
MS. TIKALSKY: We're getting there.
MR. WALSH: I'm sorry, is he looking at the exhibit now? Because I don't have one.
MS. TIKALSKY: Oh, here.
MR. WALSH: Thanks.
MS. TIKALSKY: Q Okay, I'm representing that this is a letter to Valeriy Brodsky dated March 23rd, 2007, from NACME Steel, John DuBrock. You work with John DuBrock?
THE WITNESS: A Yes, I work with him.
Q Right. It's regarding Change Request for a FESOP application. And did you compose this letter for him?
A I don't recall.
Q Can you summarize what this requested, specifically asking?
A Sure. Basically, it appears to request

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an increase in throughputs for the pickling process.
Q And earlier you stated that would be a change in operation, an increase of throughput, material throughput, is that correct?
A Yes, if it was done. This is just proposed.
MS. TIKALSKY: Okay, you want to chat?
MR. GRANT: You want to call Maureen?
MS. TIKALSKY: Um-hum.
MR. GRANT: And see if she's got anything?
MS. TIKALSKY: Um-hum.
MR. WALSH: We can just step out.
MR. GRANT: Do you mind?
MR. WALSH: No.
MS. TIKALSKY: Off the record.
(WHEREUPON, a short break was held)
MS. TIKALSKY: Q A couple more questions on the document Exhibit Number 4, the operating permit revised, which is issued February 8th, 2001. Have you got it? Okay, could you look through this document and tell me if there's any place on this document where it says it's a Federally Enforceable State Operating Permit.

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THE WITNESS: A I don't see anywhere it says that. I see limitations on the permit.
Q And you did state earlier that some state operating permits may have limitations?
A Yeah, any of them can.
Q And then to Exhibit Number 10 where the top page says "Permit Denial", is that the letter or --
A The construction permit revised?
Q 0237, NMLP 0237, that page, okay -- and 0238. On this document do you see anyplace where this letter was sent to the permit section of the Illinois EPA?
A It doesn't list permit section on here.
Q And it's addressed to the Compliance and Enforcement Section, is that correct?
A Yes. If I recall, I was working with Julie Armitage due to a facility closure.
Q Yeah. And a couple of quick questions, standard: Do you have a criminal record?
A No.
Q Do you -- Ever been sued before?
A No.
Q Sued anyone else?

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A Nope.
Q Are there any answers to my questions that you wish to change?
MR. WALSH: I'm going to object to the question until he reviews his deposition and has a right to make such changes.
MS. TIKALSKY: Not substantive. And that's what I'm asking.
THE WITNESS: A Not that I can think of at this moment.
MS. TIKALSKY: Q Do you have any other information that I asked you about that you now recall that you did not earlier?
MR. WALSH: I'll object. We've been sitting here now three hours and you're asking him now to recall everything he's testified about.
THE WITNESS: A Not that I'm aware of at this time.
MS. TIKALSKY: Thank you, that's all I have. Do you have anything?
MR. WALSH: No, I don't. Thank you. We'll reserve.
MS. TIKALSKY: Okay.

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STATE OF ILLINOIS)
) ss:
COUNTY OF COOK)

The within and foregoing deposition of the aforementioned witness was taken before NANCY K. SPEARE, C.S.R. and Notary Public, at the place, date and time aforementioned.

There were present during the taking of the deposition the previously named counsel. The said witness was first duly sworn and was then examined upon oral interrogatories; the questions and answers were taken down in shorthand by the undersigned, acting as stenographer and Notary Public; and the within and foregoing is a true, accurate and complete record of all of the questions asked of and answers made by the aforementioned witness, at the time and place hereinabove referred to.

The signature of the witness was not waived, and the deposition was submitted, pursuant to Rules 207 and 211 (d) of the Rules of the Supreme Court of Illinois, to the deponent per copy of the attached letter.

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The undersigned is not interested in the within case, nor of kin or counsel to any of the parties.

Witness my official signature and seal as Notary Public in and for Cook County, Illinois on this day of , A.D. 2013.

NANCY K. SPEARE, C.S.R.,
Notary Public
License No. 084-001584

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TOOMEY REPORTING
205 West Randolph Street
Suite 1230
Chicago, Illinois 60602

WITNESS CERTIFICATION

I hereby certify that I have read the foregoing transcript of my deposition consisting of pages 1 through 84 inclusive. Subject to the changes set forth on the preceding pages, the foregoing is a true and correct transcript of my deposition taken on 10-17-13.

(Signed)
BRITT E. WENZEL

SUBSCRIBED AND SWORN TO
Before me this day of

A.D. 2013.

Notary Public

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	**PCB No. 13 - 12**
	)	(Enforcement – Air)
NACME STEEL PROCESSING, LLC,	)	
a Delaware limited liability corporation,	)	
	)	
Respondent.	)	

EXHIBIT E

VALERIY BRODSKY AFFIDAVIT

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE PEOPLE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB No. 13 - 12
	)	(Enforcement – Air)
NACME STEEL PROCESSING, LLC,	)	
a Delaware limited liability corporation,	)	
	)	
Respondent.	)	

AFFIDAVIT

I, Valeriy Brodsky, being duly sworn on oath, depose and state that I am over 21 years of age, have personal knowledge of the facts stated herein, and, if called as a witness, could competently testify to facts as set forth herein as follows:

1. I am currently employed by the Illinois Environmental Protection Agency ("Illinois EPA" or "Agency") as an Environmental Protection Engineer III, Bureau of Air, Permit Section, located at 1021 North Grand Avenue East, Springfield, Illinois. I have held this position from 1994 to the present. I was and continue to be the permit reviewer for Nacme Steel Processing, LLC

2. As an Environmental Protection Engineer III, my duties and responsibilities include, in part, review and recommend action on air permit applications, drafting correspondence and permits related to permit applications and ensure such activities are performed in compliance with the federal Clean Air Act, the Illinois Environmental Protection Act ("Act") and Pollution Control Board ("Board") regulations.

3. The April 2002 Stack Test shows the tons per hour (tph) of steel throughput that occurred during the stack test is based on 200 tons of steel pickled in a 6 hour period resulting in a calculation of 33.3 tph of steel throughput (process rate).

4. The April 2002 Stack Test results indicate the average HCL emission rate during the stack test to be .217 lbs/hr controlled emission rate. I calculated the PTE HCL (before control) on the maximum hourly controlled emission rate and the efficiency of the control at 99.90% efficiency stated in the 2002 Construction Permit and 2005 FESOP Application as the manufacturer's guaranteed efficiency result, which means that less than 1% of uncontrolled emissions are emitted. Thus, the measured or assumed negligible controlled emission shall be multiplied at least by 100 to get the uncontrolled emission rate value also known as PTE.

5. The emissions factor derived from the April 2002 Stack Test shows the HCL emissions factor to be 6.51 lbs. of HCl per 1,000 (10^3) tons of steel throughput. The emissions factor is calculated as follows: 0.217 lbs HCL per hour controlled emission rate divided by 33.3333 tons of steel/hour equals .0065 lbs HCl/Ton of Steel.

6. In Nacme's September 2005 SOP Renewal Application Nacme calculated the HCL PTE controlled emission rate to be 1.8 tpy of HCL emissions based on Nacme's 2005 SOP allowances of 4.8 lb/1000 tons and a 750,000 tpy proposed process rate, instead of the controlled emission rate and actual steel throughput shown in its April 2002 Stack Test results, which was the most recent indication of HCL emissions at the Facility.

7. In December 2005, I informed Nacme that the Agency could issue a FESOP with a process rate no greater than 33.3 tons per hour ("tph") pursuant to the results shown in its April 2002 Stack Test but not at the process rate of 85.6 tph proposed in Nacme's 2005 FESOP Application.

8. On several occasions between December 2005 and January 26, 2012, when Nacme met with the Complainant in a prefiling meeting, the Agency requested Nacme to submit a construction permit application for Nacme's proposed annual maximum steel throughput process modification requested in its 2005 FESOP Application and 2007 FESOP Application.

9. On or about February 12, 2012, Nacme submitted a construction permit application requesting the process modification of 120 tph, which was equivalent to Process Modification requested in its 2007 FESOP Application.

10. Relevant calculations for the Facility permits, permit applications and stack tests include the following:

Steel throughput process rates:

Nacme's 2005 SOP: 600,000 tpy divided by (24 x 365) = 69 tph

April 2002 Stack Test: 33.3 tph process rate x (24 x 365) = 292,000 tpy

Nacme's 2002 Construction Permit and 2005 FESOP Application:
750,000 tpy process rate divided by (24x365) = 85.6 tph process rate.

PTE HCL air emissions before control at the Facility:

0.217 lbs/hr air emissions after control x 100 = 21.70 lbs/hr x (24 x 365)
= 190,092 lbs/yr divided by 2000 lbs/ton
= 95.046 tpy of PTE HCL air emissions before control.

FURTHER, AFFIANT SAYETH NOT.

VALERIY BRODSKY

SUBSCRIBED and SWORN to
Before me this 14th day
Of May, 2014.

NOTARY PUBLIC

OFFICIAL SEAL
DAWN A. HOLLIS
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES 8-19-2016