

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
vs.)	PCB No. 04-137
)	(Enforcement)
CII CARBON, L.L.C.,)	
a foreign corporation,)	
)	
Respondent.)	

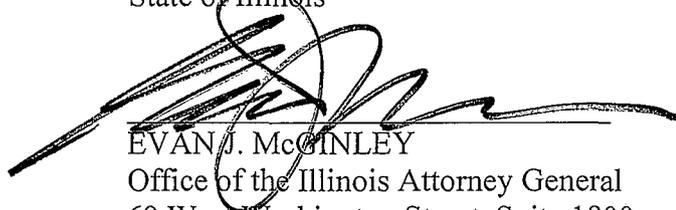
NOTICE OF FILING

PLEASE TAKE NOTICE that on March 17, 2015, I electronically filed with the Clerk of the Pollution Control Board of the State of Illinois, Complainant's Motion for Leave to File Third Amended Complaint *Instanter* and Third Amended Complaint, copies of which are attached hereto and herewith served upon you.

Respectfully Submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN, Attorney General of the State of Illinois



EVAN J. MCGINLEY
Office of the Illinois Attorney General
69 West Washington Street, Suite 1800
Chicago, Illinois 60602
312.814.3153
emcginley@atg.state.il.us

THIS FILING SUBMITTED ON RECYCLED PAPER

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
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CII CARBON, L.L.C.,)	
a foreign corporation,)	
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Respondent.)	

MOTION FOR LEAVE TO FILE THIRD AMENDED COMPLAINT *INSTANTER*

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and moves the Board for leave to file its Third Amended Complaint *Instanter*. In support thereof, Complainant states as follows:

1. On February 2, 2004, Complainant initiated this action with the filing of its two count Complaint against Respondent, Robinson Carbon, Inc.
2. On January 20, 2006, Complainant filed its Motion for Leave to File First Amended Complaint with the Board, pursuant to which, Complainant sought to file its five count, First Amended Complaint with the Board.
3. On March 19, 2010, Complainant filed a Motion for Leave to File its Second Amended Complaint, pursuant to which, Complainant sought to file its seven count, Second Amended Complaint with the Board.
4. Complainant now moves the Board to approve the filing of its Third Amended Complaint *Instanter*, in order to include additional counts against the Respondent, based upon two referrals which the Illinois EPA has made to the Attorney General since the filing of Complainant's Second Amended Complaint.

5. The Board's granting of Complainant's Motion will not result in any delay to the resolution of this action and will, in fact, incorporate all violations which Illinois EPA has to date referred to the Attorney General into Complainant's Third Amended Complaint. By allowing for the inclusion of these additional violations to this pending action, the Board will be able to fully address of Respondent's alleged violations to date at the Site.

6. Attached to this Motion is the People's proposed Third Amended Complaint. Complainant requests leave to file the Third Amended Complaint *instanter*.

WHEREFORE, Complainant respectfully requests that the Board grant its motion and to deem its proposed Third Amended Complaint to be filed *instanter*.

Respectfully Submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN, Attorney General of the
State of Illinois

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

ELIZABETH WALLACE, Chief,
Environmental Bureau North



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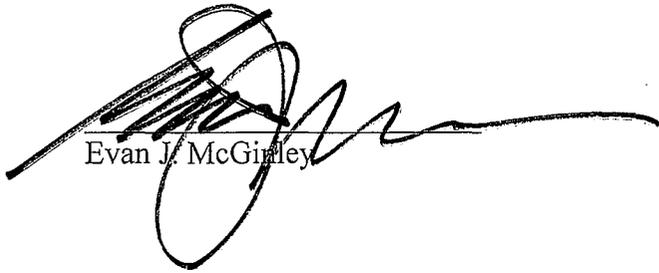
CERTIFICATE OF SERVICE

I, EVAN J. MCGINLEY, do hereby certify that, on March 17, 2015, I caused to be served on the individuals listed below, by first class mail, a true and correct copy of the attached Notice, Complainant's Motion for Leave to File Third Amended Complaint *Instantly*, and copy of the accompanying Third Amended Complaint.

John Therriault
Assistant Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601

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

Roy Harsch
Drinker Biddle & Reath LLP
191 North Wacker Drive, Suite 3700
Chicago, IL 60606-1698


Evan J. McGinley

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
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Complainant,)	
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vs.)	PCB No. 04-137
)	(Enforcement)
CII CARBON, L.L.C.,)	
a foreign corporation,)	
)	
Respondent.)	

THIRD AMENDED COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, CII CARBON, L.L.C., a foreign corporation, ("CII") as follows:

COUNT I
AIR POLLUTION

1. This Complaint is brought by the Attorney General on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2012).

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 (2012), and charged, *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board ("Board").

3. This Complaint is brought pursuant to Section 31 of the Act, 415 ILCS 5/31 (2012), after providing the Respondent with notice and the opportunity for a meeting with the Illinois EPA.

4. Respondent, CII CARBON, L.L.C., is a foreign corporation authorized to do business in Illinois. Its registered agent is C. T. Corporation System, 208 South LaSalle Street, Chicago, Illinois.

5. The Respondent operates a facility which is located at R. R. 3, P.O. Box 719, Robinson, Crawford County, Illinois and which produces calcined coke for the aluminum industry ("Facility"). The Facility consists of two production lines, each of which consists of a rotary kiln. Each kiln is approximately 180 feet long and 10 feet in diameter and is equipped with a 50 mmbtu/hr natural gas burner. Each kiln is equipped with a pyroscrubber, which is operated above 2000°F, in order to control the emission of particulate matter generated during the kilning process. The kilns are designated "Kiln #1" and "Kiln #2," respectively. After kilning the coke to 1200°, the heated coke then passes into an attached rotary cooler. The coolers are designated "Cooler #1" and "Cooler #2," respectively. Each cooler, in turn, is equipped with a baghouse, for controlling particulate matter emissions generated during the coke cooling process. The baghouses are designated "Baghouse #1" and "Baghouse #2," respectively. The final product of the kilning process is a high-purity carbon compound that is used to make anodes for the aluminum industry.

6. Emissions from the Facility include particulate matter.

7. On January 17, 1997, the Illinois EPA issued Respondent Operating Permit No. 75110042, attached hereto as Exhibit A ("Operating Permit").

8. Section 9 of the Act, 415 ILCS 5/9 (2012), provides in pertinent part:

No person shall:

- a. Cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in

combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act;

9. Section 3.115 of the Act, 415 ILCS 5/3.115 (2012), defines "air pollution" as follows:

"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.

10. Section 3.165 of the Act, 415 ILCS 5/3.165 (2012), defines "contaminant" as follows:

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

11. Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141, provides as follows:

Prohibition of Air Pollution

No person shall cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as, either alone or in combination with contaminants from other sources, to cause or tend to cause air pollution in Illinois, or so as to violate the provisions of this chapter, or so as to prevent the attainment or maintenance of any applicable ambient air quality standard.

12. Section 212.321, Processed Emission Units for which Construction or Modifications Commenced Prior to April 14, 1972, of the Board Air Pollution Regulations, 35 Ill. Adm. Code 212.321, provides as follows:

- a. Except as further provided in this Part, no person shall cause or allow the emission of particulate matter into the atmosphere in any one hour period from any new process emission unit which, either alone or in combination with the emission of particulate matter from all other similar process emission units for which

construction or modification commenced on or after April 14, 1972, at a source or premises, exceeds the allowable emission rates specified in subsection (c) of this Section.

* * *

- c. Limits for Process Emission Units For Which Construction or Modification Commenced on or After April 14, 1972:

* * *

Metric P - Mg/hr	E - kg/hr	English P - T/hr	E - lbs/hr
9.	3.9	10.00	8.70
13.	4.8	15.00	10.80
18.	5.7	20.00	12.50
23.	6.5	25.00	14.00
27.	7.1	30.00	15.60
32.	7.7	35.00	17.00
36.	8.2	40.00	18.20
41.	8.8	45.00	19.20
45.	9.3	50.00	20.50
90.	13.4	100.00	29.50

* * *

where:

P = Process weight rate in metric or T/hr, and
 E = Allowable emission rate in kg/hr or lbs/hr.

13. Commencing on or before April 12, 1998, and continuing to on or after April 23, 1998, Respondent operated the Facility's Kiln #2 and #2 Cooler in such a manner so as to exceed the particulate standard set forth in Section 212.321 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 212.321.

14. By violating Section 212.321 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 212.321, Respondent also violated Section 201.141 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.141, thereby violating Section 9(a) of the Act, 415 ILCS 5/9(a) (2012).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, CII CARBON, L.L.C.:

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

B. Finding that Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2012), and Sections 201.141 and 212.321 of the Board Air Pollution Regulations, as alleged herein;

C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2012), impose a civil penalty of up to fifty thousand dollars (\$50,000) for each violation and an additional penalty of ten thousand (\$10,000) for each day during which such violations continued;

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2012), awarding to Complainant its costs and reasonable attorney's fees; and

F. Granting such other relief as the Board may deem appropriate.

COUNT II
PERMIT CONDITION VIOLATIONS

1-8. Complainant realleges and incorporates herein by reference paragraphs 1 through 7 and 9 of Count I as paragraphs 1 through 8 of this Count II.

9. Section 9(b) of the Act, 415 ILCS 5/9(b) (2012), provides:

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;

10. Standard Condition #7 of the Operating Permit, provides:

The permittee shall maintain all equipment covered under this permit in such a manner that the performance of such equipment shall not cause a violation of the Environmental Protection Act or regulations promulgated thereunder.

11. Standard Condition #9 of the Operating Permit, provides:

No person shall cause or allow continued operation during malfunctions, breakdown or startup of any emission source or related air pollution control equipment if such operation would cause a violation of an applicable emission standard or permit limitation. Should a malfunction, breakdown or startup occur which results in emissions in excess of any applicable standard or permit limitation, the Permittee shall:

a. Immediately report the incident to the Illinois EPA's Regional Field Operations Section Office by telephone, telegraph, or other method as constitutes the fastest available alternative, and shall comply with all reasonable directives of the Illinois EPA with respect to the incident;

b. Maintain the following records for a period of no less than two (2) years;

- I. Date and duration of malfunction, breakdown, or startup;
- ii. Full and detailed explanation of the cause;

- iii. Contaminants emitted and an estimate of quantity of emissions;
- iv. Measures taken to minimize the amount of emissions during the malfunction, breakdown or startup; and
- v. Measures taken to reduce future occurrences and frequency of incidents.

12. Commencing on or before April 12, 1998, and continuing to on or after April 23, 1998, Robinson Carbon, Inc., operated the #2 Kiln while its baghouse was broken down, and commencing on or before June 8, 1999, and continuing to on or after July 10, 1999, Respondent operated the #2 Kiln with a large hole in the archway of the pyro-scrubber.

13. Further, Respondent failed to provide notice to the Agency of the aforesaid breakdowns, all in violation of Standard Conditions #7, 9 and 9(a) of Respondent's Operating Permit and Section 9(b) of the Act, 415 ILCS 5/9(a) (2012).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, CII CARBON, L.L.C.:

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

B. Finding that Respondent has violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2012); and Standard Conditions #7, 9 and 9(a) of Respondent's Operating Permit;

C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2012), impose a civil penalty of up to fifty thousand dollars (\$50,000) for each violation that occurred and an additional penalty of ten thousand (\$10,000) for each day during which such violations continued;

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2012), awarding to Complainant its costs and reasonable attorney's fees; and

F. Granting such other relief as the Board may deem appropriate.

COUNT III
REPORTING AND RECORDKEEPING VIOLATIONS

1-6. Complainant realleges and incorporates herein by reference paragraphs 1 through 6 of Count I as paragraphs 1 through 6 of this Count III.

7. On September 4, 2003, the Illinois EPA issued CAAPP permit 95120092 ("CAAPP Permit"), which was applicable to all of the sources at Respondent's Facility. Subsequent revisions to the CAAPP Permit were issued by Illinois EPA on March 12, 2004 and May 8, 2006. (Copies of Respondent's CAAPP Permit and the March 12, 2004 and May 8, 2006 permit revisions are attached to this Complaint as Exhibits B, C, and D, respectively.)

8. Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (2012), provides 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.

9. Section 39.5(2) of the Act, 415 ILCS 5/39.5(2) (2012), provides, in relevant part, as follows:

(2) 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:

ii. A major stationary source of air pollutants, as defined in Section 302 of the Clean Air Act, that directly emits or has the potential to emit, 100 tpy or more of any air pollutant subject to regulation (including any major source of fugitive emissions of any such pollutant, as determined by rule by USEPA). For purposes of this subsection, "fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening. The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of Section 302(j) of the Clean Air Act, unless the source belongs to one of the following categories of stationary source:

* * *

10. The Facility is a major source, for purposes of Section 39.5(2) because it emits more than 100 tons per year nitrogen oxides (“NO_x”), particulate matter (“PM”), and sulfur dioxide (SO₂).

11. Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2012), provides as follows:

6. Prohibitions.

a. It shall be unlawful for any person to violate any terms or

conditions of a permit issued under this Section, to operate any CAAPP source except in compliance with a permit issued by the Agency under this Section or to violate any other applicable requirements. All terms and conditions of a permit issued under this Section are enforceable by USEPA and citizens under the Clean Air Act, except those, if any, that are specifically designated as not being federally enforceable in the permit pursuant to paragraph(m) of subsection 7 of this Section.

12. Condition 5.7.1 of the CAAPP Permit provides:

5.7.1 General Source-Wide Reporting Requirements

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

13. Condition 7.1.9 of Respondent's CAAPP Permit provides:

7.1.9 Recordkeeping Requirements

In addition to the records required by Condition 5.6, the Permittee shall maintain records of the following items for the process emission unit 1 to demonstrate compliance with 5.5.1, 7.1.3(c), and 7.1.6, pursuant to Section 39.5(7)(b) of the Act:

- a. Process weight rate, ton/hr.
- b. Operating hours per year.

14. Condition 7.2.5 of Respondent's CAAPP Permit provides:

7.2.5 Operational and Production Limits and Work Practices

- a. Booth cooler baghouse and both pyroscrubber vents shall be checked for visible emissions opacity twice per day (using EPA method 22) during daylight hours and the observations entered in a logbook.
- b. For calculating the weight of water to the cooler for the purpose of determining the process weight rate (PWR) and thus allowable emissions pursuant to 35 Ill. Adm. Code

212.321 and 212.322, no readings beyond the highest listed number on the scale of a rotometer is allowed. Rotometer readings must be entered hourly in a log or at the time of a change to a new value. This condition shall not apply if a continuous recording meter is installed.

15. Condition 7.2.9(a)(3) of Respondent's CAAPP Permit provides:

7.2.9 Recording Requirements

In addition to the records required by Condition 5.6, the Permittee shall maintain records of the following items for affected Petroleum Coke Calcining Operations to demonstrate compliance with conditions 5.5.1 and 7.2.6, pursuant to Section 39.5(7)(b) of the Act:

- a. For Kilns:
 - Process Weight Rate, ton/hr
 - Operating Hours Per Year
- b. For Pyroscrubbers: operating hours per year.
- c. For Cooler Baghouse: Operating hours per year.
- d. For Cooler 1 and 2: Process Weight Rates.
- e. Records addressing use of good operating practices for the dust collectors:
 - I. Records for periodic inspection of the bag collectors with date, name of individual performing the inspection, and the nature of the inspection.
 - ii. Records of prompt repair of defects, with identification and description of defect, effect on emissions, date identified, date repaired, and nature of repair.

16. Condition 7.2.10 of Respondent's CAAPP Permit provides:

7.2.10 Reporting Requirements

The Permittee shall notify the Illinois EPA's regional office by telephone as soon as possible during normal working hours upon

the occurrence of excess emissions due to malfunctions, or breakdowns or prior to any cold startup. If the malfunction or breakdown is less than 1 hour, or the emissions diverted within 30 minutes such that the emissions are in compliance after the diversion, are not required to have the Illinois EPA notified but records must be kept. The Permittee shall comply with all reasonable and safe directives of the regional office regarding such malfunctions and breakdowns. Within five (5) working days of such occurrence the Permittee shall give a written follow-up notice providing an explanation of the occurrence, the length of time during which operation continued under such conditions, measures taken by the permittee to minimize excess emissions and correct deficiencies, and when normal operation resumed.

17. Condition 7.3.9(a)-(c) of Respondent's CAAPP Permit provides:

7.3.9 Recordkeeping Requirements

The Permittee shall maintain records of the following items to demonstrate compliance with Conditions 5.5.1 and this section pursuant to Section 39.5(7)(b) of the Act:

- a. W = Mean vehicle weight (tons)
- b. VMT = Vehicle miles traveled

Records for fugitive road dust shall be calculated on an annual basis, except this calculation shall be updated if substantial changes to the roads occur, i.e., additional roads added.

- c. Material processed (storage piles), tons

18. Condition 5.6.6(a) of Respondent's CAAPP Permit provides:

5.6.6 Retention and Availability of Records

- a. All records and logs required by this permit shall be retained for at least five years from the date of entry (unless a longer retention period is specified by the particular recordkeeping provision herein), shall be kept at a location at the source that is readily accessible to the Illinois EPA or USEPA, and shall be made available for inspection and copying by the Illinois EPA or USEPA upon request.

19. On December 18, 2003, Illinois EPA conducted an inspection of the Facility ("December 2003 Inspection"). While reviewing facility records which Respondent is required to maintain as a condition of its CAAPP Permit, Illinois EPA determined that, commencing in January 2003 and continuing through July 13, 2003, as well as from October 31 through December 12, 2003, Respondent did not maintain a cooler gas diversion log sheet, in violation of Condition 7.2.10 of its CAAPP Permit and Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2012).

20. Additionally, during the December 2003 Inspection, Illinois EPA determined that, on some date prior to December 18, 2003, better known to Respondent, and continuing through December 18, 2003, Respondent did not check the cooler baghouses and pyroscrubber vents for visible opacity emission using Method 22 nor opacity observers trained in Method 22; and, improper forms were used to record readings, all in violation of Condition 7.2.5 of its CAAPP Permit and Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2012).

21. Finally, during the December 2003 Inspection, Illinois EPA determined that Respondent was not keeping the records required by Conditions 7.1.9(a)-(c), 7.2.9(a)-(c), and 7.3.9(a)-(c) of Respondent's CAAPP Permit. and that these records were therefore not available for inspection by Illinois EPA.

22. On April 2, 2008, Illinois EPA conducted another inspection of the Facility ("April 2008 Inspection"). During the April 2008 Inspection, Illinois EPA also determined that Respondent was failing to keep records of the twice daily visible emissions readings using EPA Method 22 for a number of days within the period of January 1, 2007 through April 4, 2008, in violation of condition 7.2.5(a) of Respondent's CAAPP Permit , as well as Section 39.5(6)(a) of the Act, 415 ILCS 39.5(6)(a) (2012).

23. Additionally, during the April 2008 Inspection, Illinois EPA also determined that the Respondent was failing to maintain records of the baghouse trips for the periods of July 2, 2006 through December 4, 2006; February 12, 2007 through April 9, 2007; and January 5, 2008 through January 17, 2008, in violation of condition 7.2.10 of Respondent's CAAPP Permit, as well as Section 39.5(6)(a) of the Act, 415 ILCS 39.5(6)(a) (2012).

24. Additionally, on November 10, 2009, during a subsequent Illinois EPA inspection of the Facility ("November 2009 Inspection"), Illinois EPA determined that Respondent had failed to keep the records documenting the Facility's compliance with Condition 7.2.5 of its CAAPP Permit, by failing to perform the required Method 22 readings on the following dates in 2009: February 11 and 21, May 6, 8, 13, and 27, September 6, 24, and 26, and October 6, 10, and 22.

25. Finally, on May 3, 2012, during another Illinois EPA inspection of the Facility ("May 2012 Inspection"), Illinois EPA determined that Respondent had failed to keep the records documenting the Facility's compliance with Condition 7.2.5 of its CAAPP Permit on the following dates: October 23, 2010, February 4, 2011, and March 2 through 5, 2012. Additionally, during the May 2012 Inspection, Illinois EPA determined that Respondent had also failed to report deviations from Respondent's CAAPP Permit to Illinois EPA, as required by Condition 5.7.1 of the CAAPP Permit, relative to deviations which occurred at the Facility on or about May 20 and 24, 2011.

26. Respondent, by failing to keep the aforementioned records which were required by its CAAPP Permit, thereby violated Conditions 7.1.9(a)-(b), 7.2.9(c)-(d), and 7.3.9(a)-(c), thereby also violating Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2012).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, CII CARBON, L.L.C.:

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

B. Finding that Respondent has violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(b) (2012), and Conditions 7.1.9, 7.2.5, 7.3.9(c)-(d), 7.2.10, and 5.6.6 of its CAAPP Permit, as alleged herein;

C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2012), impose a civil penalty of up to Fifty Thousand Dollars (\$50,000.00) for each violation and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day during which such violations continued;

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2012), awarding to Complainant its costs and reasonable attorney's fees; and

F. Granting such other relief as the Board may deem appropriate.

COUNT IV
MAINTENANCE AND NOTIFICATION VIOLATIONS

1-11. Complainant realleges and incorporates herein by reference paragraphs 1 through 11 of Count III as paragraphs 1 through 11 of this Count IV.

12. Condition 7.2.3(a)(iii) of Respondent's CAAPP Permit provides:

7.2.3 Applicability Provisions and Applicable Regulations

* * *

g. Malfunction and Breakdown Provisions

In the event of a malfunction or breakdown of the affected Petroleum Coke Calcining Operations, the Permittee is authorized to continue operation of the kilns in violation of the applicable requirement of 35 IAC 212.123(a) and 212.321(a), as necessary to prevent risk of injury to personnel or severe damage to equipment. This authorization is subject to the following requirements:

* * *

- iii. If both kilns are operating and the No. 1 baghouse has a malfunction, the Rotary Cooler No. 1 shall be vented to its own pyroscrubber. If the malfunction occurs for 30 minutes or greater, the kiln operating rate will be reduced to 16 tons/hr of green coke. Operation in this mode is allowed for a maximum of 48 hours unless the Permittee obtains an extension from the Illinois EPA.

13. Condition 7.2.10 of Respondent's CAAPP Permit provides:

7.2.10 Reporting Requirements

The Permittee shall notify the Illinois EPA's regional office by telephone as soon as possible during normal working hours upon the occurrence of excess emissions due to malfunctions, or breakdowns or prior to any cold startup. If the malfunction or breakdown is less than 1 hour, or the emissions diverted within 30 minutes such that the emissions are in compliance after the diversion, are not required to have the Illinois EPA notified but records must be kept. The Permittee shall comply with all reasonable and safe directives of the regional office regarding such malfunctions and breakdowns. Within five (5) working days of such occurrence the Permittee shall give a written follow-up notice providing an explanation of the occurrence, the length of time during which operation continued under such conditions, measures taken by the Permittee to minimize excess emissions and correct deficiencies, and when normal operation resumed.

14. Condition 9.2.2 of Respondent's CAAPP Permit provides:

9.2.2 Duty to Maintain Equipment

The Permittee shall maintain all equipment covered under this permit in such a manner that the performance or operation of such equipment shall not cause a violation of applicable requirements.

15. Commencing on some date before February 4, 2004, and continuing until at least February 10, 2004, and continuing thereafter to some date known to the Respondent, Respondent did not properly maintain the No. 2 Dust Collector exhaust fan, as required by condition 9.2.2 of Respondent's CAAPP Permit and in violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2012).

16. On February 8, 2004, and continuing until 10:30 a.m. on February 10, 2004, Respondent caused or allowed the operation of Kiln #1 at a feed rate of 21 tons/hour during the failure of the #1 Dust Collector fan, in violation of Condition 7.2.3(g)(iii) of Respondent's CAAPP Permit, and Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2012).

17. On February 10, 2004, Respondent failed to submit the initial telephone notification for the incident of repairing of exhaust fan housing on #1 Dust Collector fan, in violation of Condition 7.2.10 of Respondent's CAAPP Permit, thereby violating Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2012).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, CII CARBON, L.L.C.:

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

B. Finding that Respondent has violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2012); and Conditions 7.2.3, 7.2.10, and 9.2.2 of Respondent's CAAPP Permit;

C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2012), impose a civil penalty of up to Fifty Thousand Dollars (\$50,000.00) for each violation and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day during which such violations continued;

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2012), awarding to Complainant its costs and reasonable attorney's fees; and

F. Granting such other relief as the Board may deem appropriate.

COUNT V
RECORDKEEPING VIOLATIONS

1-14. Complainant realleges and incorporates by reference paragraphs 1 through 11, 13, 15, and 19 of Count III as paragraphs 1 through 14 of this Count V.

15. Condition 5.6.1 of Respondent's CAAPP Permit provides:

5.6.1 Emission Records

The permittee shall maintain records of the following items for the source to demonstrate compliance with Condition 5.5.1, pursuant to Section 39.5(7)(b) of the Act:

Total annual emissions on a calendar year basis for the emission units covered by Section 7 (Unit Specific Conditions) of this permit.

16. Condition 7.4.9 of Respondent's CAAPP Permit provides:

7.4.9 Recordkeeping Requirements

In addition to the records required by Condition 5.6, the Permittee shall maintain records of the following items for the affected tank to demonstrate compliance with Conditions 5.5.1, 7.4.3, and 7.4.5, pursuant to Section 39.5(7)(b) of the Act.

- a. Design information for the tank showing the presence of a permanent submerged loading pipe;
- b. Maintenance and repair records for the tank, as related to the repair or replacement of the loading pipe;
- c. The throughput of the affected tank, gal/mo and gal/yr; and
- d. The monthly and aggregate annual VOM emissions from the affected tank based on the material stored, the tank throughput, and the applicable emission factors and formulas with supporting calculations.

17 Condition 9.6.1 of Respondent's CAAPP Permit provides:

9.6.1 Control Equipment Maintenance Records

A maintenance record shall be kept on the premises for each item of air pollution control equipment. As a minimum, this record shall show the dates of performance and nature of preventative maintenance activities.

18. Commencing on some date prior to February 17, 2005 and continuing thereafter to some date known to the Respondent, Respondent failed to maintain records of total annual emissions on a calendar year basis, in violation of Conditions 5.6.1 and 5.6.6 of Respondent's CAAPP Permit and in violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2012).

19. Commencing on some date prior to February 17, 2005 and continuing thereafter to some date known to Respondent, Respondent failed to maintain records of the process weight rate (tons/hr) and the operating hours per year for the green coke receiving and storage and the crushing, screening, stocking and conveying operations in violation of Conditions 7.1.9 and 5.6.6 of Respondent's CAAPP Permit and Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2012).

20. Commencing on some date prior to February 17, 2005 and continuing to some date thereafter known to Respondent, Respondent failed to maintain all of the required records in the correct format, in violation of Conditions 7.2.9 and 5.6.6 of Respondent's CAAPP Permit and

in violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2012).

21. Commencing on some date prior to February 17, 2005 and continuing thereafter to some date known to the Respondent, Respondent failed to maintain records for the storage tank in the required format, in violation of Conditions 7.4.9 and 5.6.6 of Respondent's CAAPP Permit and in violation of Section 39.5(6)(1) of the Act, 415 ILCS 5/39.5(6)(a) (2012).

22. Commencing on some date prior to February 17, 2005 and continuing thereafter to some date known to Respondent, Respondent failed to maintain adequate records demonstrating that all air pollution equipment covered under the CAAPP Permit was properly maintained, in violation of Condition 9.6.1 of Respondent's CAAPP Permit and Section 39.5(6)(a) of the Act, 415 ILCS /39.5(6)(a) (2012).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, CII CARBON, L.L.C.:

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

B. Finding that Respondent has violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2012); as well as Conditions 5.6.1, 5.6.6, 7.1.9, 7.2.9, 7.4.9, and 9.6.1 of Respondent's CAAPP Permit;

C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2012), impose a civil penalty of up to Fifty Thousand Dollars (\$50,000.00) for each violation and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day during which such violations continued;

- E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2012), awarding to Complainant its costs and reasonable attorney's fees; and
- F. Granting such other relief as the Board may deem appropriate.

COUNT VI
OPERATION AND NOTIFICATION VIOLATIONS

1-13. Complainant realleges and incorporates paragraphs 1 through 11, 24 and 25 of Count III, as paragraphs 1 through 13 of this Count VI.

14. Section 39.5(7)(f)(ii) of the Act, 415 ILCS 5/39.5(7)(f)(ii) (2012) provides:

7. Permit Content.

* * *

f. To meet the requirements of this subsection with respect to reporting, the permit shall incorporate and identify all applicable reporting requirements and require the following:

* * *

ii. Prompt reporting of deviations from permit requirements, including those attributable to upset conditions as defined in the permit, the probable cause of such deviations, and any corrective actions or preventive measures taken.

15. Condition 7.2.3(e) of Respondent's CAAPP Permit provides, as follows:

No person shall cause or allow the emission of sulfur dioxide into the atmosphere from any process emission unit (affected Petroleum Coke Calcining Operations) to exceed 2000 ppm [35 Ill. Adm. Code 301].

16. Condition 7.2.3(h)(ii) of Respondent's CAAPP Permit provides, in relevant part:

ii. The Permittee shall take the following measures to minimize startup emissions, the duration of startups, and minimize the frequency of startups:

* * *

- D. For the purposes of this condition, the pyroscrubber is defined as being in a malfunction mode if the temperature of the dust chamber thermocouple falls below 1800°F regardless of any equipment failure.

* * *

2. During this temporary shutdown emissions shall be minimized by reducing the airflow through the kiln to match the lower combustion rate.

17. Condition 7.2.6 of Respondent's CAAPP Permit provides, in pertinent part:

* * *

Emissions and operations of coolers shall not exceed the following limits:

<u>Item of Equipment</u>	<u>Process Weight Rate</u> <u>(Tons/Hour)</u>
Cooler 1	29.9
Cooler 2	29.9

18. Condition 5.7.1 of Respondent's CAAPP Permit provides:

General Source-Wide Reporting Requirements

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

19. At the time of the April 2008 Inspection, Respondent reported a failure to minimize emissions during a number of temporary shutdowns of the kiln within the period of September 3, 2006 through February 13, 2007 by failing to reduce the airflow through the kiln to match the lower combustion rate, in violation of Condition 7.2.3(h)(ii)(D)(2) of Respondent's CAAPP Permit, as well as Section 39.5(6)(a) of the Act, 415 ILCS 39.5(6)(a) (2012).

20. At the time of the April 2008 Inspection, Respondent also exceeded the process weight rate limits for Cooler 1 for the month of April 2007 and Cooler 2 for the month of March 2007, as well as the months of May 2007 through December 2007, in violation of Condition 7.2.6 of Respondent's CAAPP Permit, as well as Section 39.5(6)(a) of the Act, 415 ILCS 39.5(6)(a) (2012).

21. At the time of the April 2008 inspection, Respondent also failed to promptly notify Illinois EPA of the above referenced deviations from the conditions of its CAAPP Permit, in violation of Condition 5.7.1 of Respondent's CAAPP Permit, as well as Section 39.5(6)(a) of the Act, 415 ILCS 39.5(6)(a) (2008).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, CII CARBON, L.L.C.:

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

B. Finding that Respondent has violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2012), and Conditions 7.2.3(h)(ii)(D)(2) and 7.2.6 of Respondent's CAAPP Permit;

C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2012), impose a civil penalty of up to Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and the pertinent regulations and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day during which such violations continued;

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2012), awarding to Complainant its costs and reasonable attorney's fees; and

F. Granting such other relief as the Board may deem appropriate.

COUNT VII

FAILURE TO TIMELY SUBMIT ANNUAL EMISSIONS REPORTS

1-10. Complainant realleges and incorporates by reference herein paragraphs 1 through 10 of Count I as paragraphs 1 through 10 of this Count VII.

11. Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), provides as follows:

The owner or operator of any emission unit or air pollution control equipment, unless specifically exempted in this Section, shall submit to the Agency as a minimum, annual reports detailing the nature, specific emission units and total annual quantities of all specified air contaminant emissions; provided, however, that the Agency may require more frequent reports where necessary to accomplish the purposes of the Act and this Chapter.

12. Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102, provides the following definitions:

“Emission Source”: Any equipment or facility of a type capable of emitting specified air contaminants to the atmosphere.

“Owner or Operator”: Any person who owns, leases, controls or supervises an emission source or air pollution control equipment.

13. Respondent is an “owner or operator” of an “emission source” as those terms are defined in Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102.

14. Respondent is not exempt from the provisions of Section 201.302(a) of the Board Air Pollution Regulations, and therefore obligated to submit annual reports detailing the nature, specific emission units and total annual quantities of all specified air contaminant emissions.

15. Section 254.132(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm.

Code 254.132(a), provides as follows:

Failure to file a complete Annual Emissions Report by the applicable deadlines prescribed in Section 254.137(a) of this Subpart shall be a violation of this Part and 35 Ill. Adm. Code 201.302(a).

16. Section 254.137(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm.

Code 254.137(a), provides as follows:

All Annual Emissions Reports are due by May 1 of the year following the calendar year in which the emissions took place.

17. Respondent did not submit its Annual Emission Reports (“AER”) for calendar year 2011 until July 10, 2012, more than two months after the May 1, 2012 filing deadline.

18. Respondent, by failing to timely submit its AER for 2011, thereby violated Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Section 254.132(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a), and thereby also violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2012).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against the Respondent, CII CARBON, L.L.C. for the following relief:

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

2. Finding that Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2012), Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Section 254.132(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a);

3. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;

4. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2012), impose a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of the Act and pertinent regulations, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day during which such violations continue;

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

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

COUNT VIII

FAILURE TO SUBMIT TRUE AND ACCURATE COMPLIANCE CERTIFICATIONS FOR 2010 AND 2011

1-11. Complainant realleges and incorporates by reference herein paragraphs 1 through 11 of Count III as paragraphs 1 through 11 of this Count VIII.

12. Condition 9.8 of Respondent's CAAPP Permit provides, in relevant part:

Pursuant to Section 39.5(7)(p)(v) of the Act, the Permittee shall submit annual compliance certifications. The compliance certification shall be submitted no later than May 1 or more frequently as specified in the applicable requirements or by permit condition.

13. During the May 2012 Inspection, the Illinois EPA's inspector determined that Respondent had not submitted true and accurate compliance certifications for the 2010 and 2011 calendar years, in that Respondent's compliance certifications for these years failed to note that Respondent failed to conduct the required Method 22 observations at the Facility on October 23, 2010 and February 4, 2011. Respondent did not report these deviations to Illinois EPA until March 28, 2012.

14. By failing to submit its compliance certifications for the 2010 and 2011 calendar years, Respondent violated Condition 9.8 of its CAAPP Permit, thereby also violating Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2012).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against the Respondent, CII CARBON, L.L.C. for the following relief:

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

2. Finding that Respondent has violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2012), and Section 9.8 of its CAAPP Permit;

3. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;

4. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2012), impose a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of the Act and pertinent regulations, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day during which such violations continue

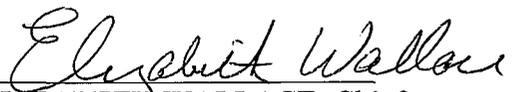
5. Taxing all costs in this action, including, but not limited to, attorney, expert witness and consultant fees, against Respondent; and

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

Respectfully submitted,

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

MATTHEW J. DUNN, Chief
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