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May 20, 2019

Via E-mail at Vaughn.Lorena@epa.gov
and Federal Express
Ms. Lorena Vaughn
Regional Hearing Clerk (6RC-D)
U.S. EPA - Region 6
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2733

Re: No. EPCRA-06-2019-0501, *In the Matter of Thomas Petroleum, LLC, Pilot Thomas Logistics, LLC*, U.S. Environmental Protection Agency, Region 6, Dallas, Texas

Dear Ms. Vaughn:

Attached please find Thomas Petroleum LLC and Pilot Thomas Logistics LLC's Answer to Complaint, Affirmative Defenses and Request for Hearing ("Answer") for filing in the above captioned matter. An original and one hard copy have been sent by Federal Express today.

You advised in our telephone conversation Friday, May 17th, that as long as you received the above Answer by e-mail on the day the answer is due, Monday, May 20, 2019, the Answer would be timely filed. I will call this afternoon to verify receipt.

Very truly yours,

Ragna Henrichs

Ragna Henrichs
Senior Counsel

ROH:mhb

Enclosures

cc: ***Via Federal Express***
James Murdock
Office of Regional Counsel
U.S. EPA – Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733

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David Riley
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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

FILED
2019 MAY 23 PM 4: 06
REGIONAL HEARING CLERK
EPA REGION VI

IN THE MATTER OF:	§	
	§	
	§	
THOMAS PETROLEUM, LLC	§	
PILOT THOMAS LOGISTICS, LLC	§	DOCKET NO. EPCRA-06-2019-0501

ANSWER TO COMPLAINT, AFFIRMATIVE DEFENSES AND REQUEST FOR HEARING

Thomas Petroleum, LLC ("Thomas") and Pilot Thomas Logistics, LLC ("Pilot") through the undersigned attorneys, present their Answer to the Administrative Complaint ("Complaint") filed by the United States Environmental Protection Agency Region 6 ("EPA" or "Complainant"), and respectfully state, allege and pray as follows:

THOMAS' ANSWER

I. STATUTORY AND REGULATORY BACKGROUND

1. Paragraphs 1-7 set forth legal conclusions to which no response is required. To the extent Paragraphs 1-7 are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and those allegations are denied.

II. PRELIMINARY ALLEGATIONS

2. Paragraph 8 sets forth legal conclusions to which no response is required. To the extent Paragraph 8 is deemed to state any factual allegations against Thomas, Thomas admits it is a "person" under Section 329(7) of EPCRA.

3. In response to Paragraph 9, Thomas admits that it has at one time or another owned or operated the identified facilities, but is without knowledge or information sufficient to form a belief as

to whether Thomas owned or operated these facilities "at all relevant times". For instance, the Hobbs facility was closed before October 1, 2015, the San Benito facility was closed before October 1, 2016, and the Damascus facility only has one employee.

4. Thomas denies the allegations in Paragraph 10.

5. In response to Paragraph 11, Thomas admits only that on its most recent EPCRA 313 annual reports for those facilities (for reporting year 2017 or before, depending on the facility), Thomas Petroleum, LLC is listed as the "parent company" of the twelve (12) reporting facilities identified in Paragraph 9. To the extent Paragraph 11 is deemed to state any other factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in this paragraph, and the allegations are therefore denied.

6. Paragraph 12 sets forth legal conclusions to which no response is required. To the extent Paragraph 12 is deemed to state any factual allegations against Thomas, Thomas admits only that the twelve (12) facilities identified in Paragraph 9 were "facilities" under Section 329(4) of EPCRA and 40 C.F.R. § 372.3 in 2012 and 2013 and denies any other factual allegations.

7. Paragraph 13 sets forth legal conclusions to which no response is required. To the extent Paragraph 13 is deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in this paragraph, and the allegations are therefore denied.

8. In response to Paragraph 14, Thomas admits that at some point in 2012 and 2013, the twelve (12) facilities identified in Paragraph 9 may have had ten (10) or more full-time employees as "full-time employee" is defined in 40 C.F.R. § 372.3, but denies all twelve (12) facilities had ten (10) or more full-time employees, as the term "full-time employee" is commonly understood to mean.

9. In response to Paragraph 15, Thomas admits that for 2012 or 2013 Thomas listed NAICS code 424710 as applicable to all twelve (12) facilities identified in Paragraph 9. The remainder of this

paragraph—that SIC code 5171 and NAICS code 424710 are covered under 40 C.F.R. Part 372, and that 40 C.F.R. Part 372 applies to facilities with these primary codes—sets forth a legal conclusion to which no response is required. To the extent Paragraph 15 is deemed to state any other factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of these allegations, and the allegations are therefore denied.

10. In response to Paragraph 16, Thomas denies any allegation that all twelve (12) of the facilities identified in Paragraph 9 "manufactured, processed or otherwise used" naphthalene, diethanolamine, 1,2,4-trimethylbenzene, ethylene glycol, methanol, N-hexane, polycyclic aromatic compounds, toluene, xylene (mixed isomers) and zinc compounds during calendar years 2012 and 2013. Thomas admits only that, in 2012 and/or 2013, each of the twelve (12) facilities identified in Paragraph 9 "manufactured, processed, or otherwise used" one or more of the chemicals listed in Paragraph 16.

11. Paragraph 17 sets forth legal conclusions to which no response is required. To the extent Paragraph 17 is deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in this paragraph, and those allegations are denied.

12. The allegations in Paragraph 18 are vague, and Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of them. The allegations in Paragraph 18 are therefore denied.

13. In response to Paragraph 19, Thomas admits EPA conducted an onsite inspection of the Tyler facility on October 29, 2014, that EPA then conducted desk audit investigations into the eleven (11) other facilities named in the Complaint, and that Thomas has fully cooperated with EPA's investigation. Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations stated in this paragraph, and the allegations are therefore denied. All of EPA's investigation activities commenced only after voluntary, good faith disclosures by Thomas.

III. VIOLATIONS

Thomas Petroleum, LLC Arkansas

14. Thomas admits the allegations in Paragraph 20 and 21.

15. In response to Paragraphs 22 and 23, Thomas admits that for 2012 and 2013 Thomas listed NAICS Code 424710 as applicable to the Damascus facility.

Count 1 – Failure to Timely Report 1,2,4-Trimethylbenzene for Calendar Year 2012

16. For its answer to Paragraph 24, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 23 as if fully stated herein.

17. Thomas admits the allegations in Paragraph 25.

18. Paragraphs 26 and 27 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 2 – Failure to Timely Report Diethanolamine for Calendar Year 2012

19. For its answer to Paragraph 28, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 23 as if fully stated herein.

20. Thomas admits the allegations in Paragraph 29.

21. Paragraphs 30 and 31 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 3 – Failure to Timely Report Ethylene Glycol for Calendar Year 2012

22. For its answer to Paragraph 32, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 23 as if fully stated herein.

23. Thomas admits the allegations in Paragraph 33.

24. Paragraphs 34 and 35 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 4 – Failure to Timely Report N-Hexane for Calendar Year 2012

25. For its answer to Paragraph 36, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 23 as if fully stated herein.

26. Thomas admits the allegations in Paragraph 37.

27. Paragraphs 38 and 39 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 5 – Failure to Timely Report Methanol for Calendar Year 2012

28. For its answer to Paragraph 40, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 23 as if fully stated herein.

29. Thomas admits the allegations in Paragraph 41.

30. Paragraphs 42 and 43 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is

without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 6 – Failure to Timely Report Naphthalene for Calendar Year 2012

31. For its answer to Paragraph 44, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 23 as if fully stated herein.

32. Thomas admits the allegations in Paragraph 45.

33. Paragraphs 46 and 47 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 7 – Failure to Timely Report PACs for Calendar Year 2012

34. For its answer to Paragraph 48, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 23 as if fully stated herein.

35. Thomas admits the allegations in Paragraph 49.

36. Paragraphs 50 and 51 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 8 – Failure to Timely Report Xylene (Mixed Isomers) for Calendar Year 2012

37. For its answer to Paragraph 52, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 23 as if fully stated herein.

38. Thomas admits the allegations in Paragraph 53.

39. Paragraphs 54 and 55 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 9 – Failure to Timely Report Zinc Compounds for Calendar Year 2012

40. For its answer to Paragraph 56, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 23 as if fully stated herein.

41. Thomas admits the allegations in Paragraph 57.

42. Paragraphs 58 and 59 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 10 – Failure to Timely Report Diethanolamine for Calendar Year 2013

43. For its answer to Paragraph 60, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 23 as if fully stated herein.

44. Thomas admits the allegations in Paragraph 61.

45. Paragraphs 62 and 63 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 11 – Failure to Timely Report Naphthalene for Calendar Year 2013

46. For its answer to Paragraph 64 Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 23 as if fully stated herein.

47. Thomas denies the allegations in Paragraph 65. Thomas timely filed a Toxic Release Inventory reporting form for 2013 for the Damascus facility. Thomas' determination on whether or not naphthalene exceeded the applicable threshold in 2013 was correctly based on EPA guidance referenced in EPA's *Toxic Release Inventory Forms and Instructions*, Revised 2013 Version (EPA 260-R-14-001, dated January 2014) that identified a 1% threshold *de minimis* level for naphthalene (Table 3-4, *EPCRA Section 313: Guidance for Petroleum Terminals and Bulk Storage Facilities*, February 2000 (EPA 745-B-00-002).

48. Paragraphs 66 and 67 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any allegations against Thomas, Thomas denies them.

Thomas Petroleum, LLC Lafayette

49. Thomas admits the allegations in Paragraph 68 and 69.

50. In response to Paragraphs 70 and 71, Thomas admits that for 2012 and 2013 Thomas listed NAICS Code 424710 as applicable to the Lafayette facility.

Count 12 – Failure to Timely Report 1,2,4-Trimethylbenzene for Calendar Year 2012

51. For its answer to Paragraph 72, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and 68 through 71 as if fully stated herein.

52. Thomas admits the allegations in Paragraph 73.

53. Paragraphs 74 and 75 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 13 – Failure to Timely Report Ethylene Glycol for Calendar Year 2012

54. For its answer to Paragraph 76, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and 68 through 71 as if fully stated herein.

55. Thomas admits the allegations in Paragraph 77.

56. Paragraphs 78 and 79 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 14 – Failure to Timely Report Methanol for Calendar Year 2012

57. For its answer to Paragraph 80, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 68 through 71 as if fully stated herein.

58. Thomas admits the allegations in Paragraph 81.

59. Paragraphs 82 and 83 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 15 – Failure to Timely Report Zinc Compounds for Calendar Year 2012

60. For its answer to Paragraph 84, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 68 through 71 as if fully stated herein.

61. Thomas admits the allegations in Paragraph 85.

62. Paragraphs 86 and 87 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 16 – Failure to Timely Report 1,2,4-Trimethylbenzene for Calendar Year 2013

63. For its answer to Paragraph 88, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 68 through 71 as if fully stated herein.

64. Thomas admits the allegations in Paragraph 89.

65. Paragraphs 90 and 91 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 17 – Failure to Timely Report Ethylene Glycol for Calendar Year 2013

66. For its answer to Paragraph 92, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 68 through 71 as if fully stated herein.

67. Thomas admits the allegations in Paragraph 93.

68. Paragraphs 94 and 95 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 18 – Failure to Timely Report N-Hexane for Calendar Year 2013

69. For its answer to Paragraph 96, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 68 through 71 as if fully stated herein.

70. Thomas admits the allegations in Paragraph 97.

71. Paragraphs 98 and 99 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is

without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 19 – Failure to Timely Report Methanol for Calendar Year 2013

72. For its answer to Paragraph 100, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 68 through 71 as if fully stated herein.

73. Thomas admits the allegations in Paragraph 101.

74. Paragraphs 102 and 103 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 20 – Failure to Timely Report Zinc Compounds for Calendar Year 2013

75. For its answer to Paragraph 104, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 68 through 71 as if fully stated herein.

76. Thomas admits the allegations in Paragraph 105.

77. Paragraphs 106 and 107 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Thomas Petroleum, LLC Hobbs

78. Thomas admits the allegations in Paragraph 108 and 109.

79. In response to Paragraphs 110 and 111, Thomas admits that for 2012 and 2013 Thomas listed NAICS Code 424710 as applicable to the Hobbs facility.

Count 21 – Failure to Timely Report 1,2,4-Trimethylbenzene for Calendar Year 2012

80. For its answer to Paragraph 112, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 108 through 111 as if fully stated herein.

81. Thomas admits the allegations in Paragraph 113.

82. Paragraphs 114 and 115 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 22 – Failure to Timely Report Ethylene Glycol for Calendar Year 2012

83. For its answer to Paragraph 116, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 108 through 111 as if fully stated herein.

84. Thomas admits the allegations in Paragraph 117.

85. Paragraphs 118 and 119 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 23 – Failure to Timely Report Methanol for Calendar Year 2012

86. For its answer to Paragraph 120, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 108 through 111 as if fully stated herein.

87. Thomas admits the allegations in Paragraph 121.

88. Paragraphs 122 and 123 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is

without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 24 – Failure to Timely Report N-Hexane for Calendar Year 2012

89. For its answer to Paragraph 124, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 108 through 111 as if fully stated herein.

90. Thomas admits the allegations in Paragraph 125.

91. Paragraphs 126 and 127 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 25 – Failure to Timely Report Naphthalene for Calendar Year 2012

92. For its answer to Paragraph 128, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 108 through 111 as if fully stated herein.

93. Thomas admits the allegations in Paragraph 129.

94. Paragraphs 130 and 131 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 26 – Failure to Timely Report PACs for Calendar Year 2012

95. For its answer to Paragraph 132, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 108 through 111 as if fully stated herein.

96. Thomas admits the allegations in Paragraph 133.

97. Paragraphs 134 and 135 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 27 – Failure to Timely Report Zylene (Mixed Isomers) for Calendar Year 2012

98. For its answer to Paragraph 136, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 108 through 111 as if fully stated herein.

99. Thomas admits the allegations in Paragraph 137.

100. Paragraphs 138 and 139 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 28 – Failure to Timely Report Zinc Compounds for Calendar Year 2012

101. For its answer to Paragraph 140, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 108 through 111 as if fully stated herein.

102. Thomas admits the allegations in Paragraph 141.

103. Paragraphs 142 and 143 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 29 – Failure to Timely Report Naphthalene for Calendar Year 2013

104. For its answer to Paragraph 144, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 108 through 111 as if fully stated herein.

105. Thomas denies the allegations in Paragraph 145. Thomas timely filed a Toxic Release Inventory reporting form for 2013 for the Hobbs facility. Thomas' determination on whether or not naphthalene exceeded the applicable threshold in 2013 was correctly based on EPA guidance referenced in EPA's *Toxic Release Inventory Forms and Instructions*, Revised 2013 Version (EPA 260-R-14-001, dated January 2014) that identified a 1% threshold *de minimis* level for naphthalene (Table 3-4, *EPCRA Section 313: Guidance for Petroleum Terminals and Bulk Storage Facilities*, February 2000 (EPA 745-B-00-002).

106. Paragraphs 146 and 147 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any allegations against Thomas, Thomas denies them.

Thomas Petroleum, LLC Beaumont

107. Thomas admits the allegations in Paragraph 148 and 149.

108. In response to Paragraphs 150 and 151, Thomas admits that for 2012 and 2013 Thomas listed NAICS Code 424710 as applicable to the Beaumont facility.

Count 30 – Failure to Timely Report 1,2,4-Trimethylbenzene for Calendar Year 2012

109. For its answer to Paragraph 152, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 148 through 151 as if fully stated herein.

110. Thomas admits the allegations in Paragraph 153.

111. Paragraphs 154 and 155 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 31 – Failure to Timely Report Ethylene Glycol for Calendar Year 2012

112. For its answer to Paragraph 156, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 148 through 151 as if fully stated herein.

113. Thomas admits the allegations in Paragraph 157.

114. Paragraphs 158 and 159 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 32 – Failure to Timely Report Methanol for Calendar Year 2012

115. For its answer to Paragraph 160, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 148 through 151 as if fully stated herein.

116. Thomas admits the allegations in Paragraph 161.

117. Paragraphs 162 and 163 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 33 – Failure to Timely Report N-Hexane for Calendar Year 2012

118. For its answer to Paragraph 164, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 148 through 151 as if fully stated herein.

119. Thomas admits the allegations in Paragraph 165.

120. Paragraphs 166 and 167 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is

without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 34 – Failure to Timely Report Naphthalene for Calendar Year 2012

121. For its answer to Paragraph 168, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 148 through 151 as if fully stated herein.

122. Thomas admits the allegations in Paragraph 169.

123. Paragraphs 170 and 171 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 35 – Failure to Timely Report Toluene for Calendar Year 2012

124. For its answer to Paragraph 172, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 148 through 151 as if fully stated herein.

125. Thomas admits the allegations in Paragraph 173.

126. Paragraphs 174 and 175 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 36 – Failure to Timely Report Xylene (Mixed Isomers) for Calendar Year 2012

127. For its answer to Paragraph 176, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 148 through 151 as if fully stated herein.

128. Thomas admits the allegations in Paragraph 177.

129. Paragraphs 178 and 179 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 37 – Failure to Timely Report Zinc Compounds for Calendar Year 2012

130. For its answer to Paragraph 180, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 148 through 151 as if fully stated herein.

131. Thomas admits the allegations in Paragraph 181.

132. Paragraphs 182 and 183 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 38 – Failure to Timely Report 1,2,4-Trimethylbenzene for Calendar Year 2013

133. For its answer to Paragraph 184, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 148 through 151 as if fully stated herein.

134. Thomas admits the allegations in Paragraph 185.

135. Paragraphs 186 and 187 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 39 – Failure to Timely Report Ethylene Glycol for Calendar Year 2013

136. For its answer to Paragraph 188, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 148 through 151 as if fully stated herein.

137. Thomas admits the allegations in Paragraph 189.

138. Paragraphs 190 and 191 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 40 – Failure to Timely Report Methanol for Calendar Year 2013

139. For its answer to Paragraph 192, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 148 through 151 as if fully stated herein.

140. Thomas admits the allegations in Paragraph 193.

141. Paragraphs 194 and 195 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 41 – Failure to Timely Report N-Hexane for Calendar Year 2013

142. For its answer to Paragraph 196, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 148 through 151 as if fully stated herein.

143. Thomas admits the allegations in Paragraph 197.

144. Paragraphs 198 and 199 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 42 – Failure to Timely Report Naphthalene for Calendar Year 2013

145. For its answer to Paragraph 200, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 148 through 151 as if fully stated herein.

146. Thomas admits the allegations in Paragraph 201.

147. Paragraphs 202 and 203 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any allegations against Thomas, Thomas denies them.

Count 43 – Failure to Timely Report Toluene for Calendar Year 2013

148. For its answer to Paragraph 204, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 148 through 151 as if fully stated herein.

149. Thomas admits the allegations in Paragraph 205.

150. Paragraphs 206 and 207 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 44 – Failure to Timely Report Xylene (Mixed Isomers) for Calendar Year 2013

151. For its answer to Paragraph 208, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 148 through 151 as if fully stated herein.

152. Thomas admits the allegations in Paragraph 209.

153. Paragraphs 210 and 211 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 45 – Failure to Timely Report Zinc Compounds for Calendar Year 2013

154. For its answer to Paragraph 212, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 148 through 151 as if fully stated herein.

155. Thomas admits the allegations in Paragraph 213.

156. Paragraphs 214 and 215 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Thomas Petroleum, LLC Bridgeport

157. Thomas admits the allegations in Paragraph 216 and 217.

158. In response to Paragraphs 218 and 219, Thomas admits that for 2012 and 2013 Thomas listed NAICS Code 424710 as applicable to the Bridgeport facility.

Count 46 – Failure to Timely Report 1,2,4-Trimethylbenzene for Calendar Year 2012

159. For its answer to Paragraph 220, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 216 through 219 as if fully stated herein.

160. Thomas admits the allegations in Paragraph 221.

161. Paragraphs 222 and 223 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 47 – Failure to Timely Report Diethanolamine for Calendar Year 2012

162. For its answer to Paragraph 224, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 216 through 219 as if fully stated herein.

163. Thomas admits the allegations in Paragraph 225.

164. Paragraphs 226 and 227 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 48 – Failure to Timely Report Ethylene Glycol for Calendar Year 2012

165. For its answer to Paragraph 228, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 216 through 219 as if fully stated herein.

166. Thomas admits the allegations in Paragraph 229.

167. Paragraphs 230 and 231 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 49 – Failure to Timely Report Methanol for Calendar Year 2012

168. For its answer to Paragraph 232, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 216 through 219 as if fully stated herein.

169. Thomas admits the allegations in Paragraph 233.

170. Paragraphs 234 and 235 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 50 – Failure to Timely Report N-Hexane for Calendar Year 2012

171. For its answer to Paragraph 236, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 216 through 219 as if fully stated herein.

172. Thomas admits the allegations in Paragraph 237.

173. Paragraphs 238 and 239 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 51 – Failure to Timely Report Naphthalene for Calendar Year 2012

174. For its answer to Paragraph 240, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 216 through 219 as if fully stated herein.

175. Thomas admits the allegations in Paragraph 241.

176. Paragraphs 242 and 243 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 52 – Failure to Timely Report PACs for Calendar Year 2012

177. For its answer to Paragraph 244, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 216 through 219 as if fully stated herein.

178. Thomas admits the allegations in Paragraph 245.

179. Paragraphs 246 and 247 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is

without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 53 – Failure to Timely Report Toluene for Calendar Year 2012

180. For its answer to Paragraph 248, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 216 through 219 as if fully stated herein.

181. Thomas admits the allegations in Paragraph 249.

182. Paragraphs 250 and 251 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 54 – Failure to Timely Report Xylene (Mixed Isomers) for Calendar Year 2012

183. For its answer to Paragraph 252, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 216 through 219 as if fully stated herein.

184. Thomas admits the allegations in Paragraph 253.

185. Paragraphs 254 and 255 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 55 – Failure to Timely Report Zinc Compounds for Calendar Year 2012

186. For its answer to Paragraph 256, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 216 through 219 as if fully stated herein.

187. Thomas admits the allegations in Paragraph 257.

188. Paragraphs 258 and 259 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 56 – Failure to Timely Report Diethanolamine for Calendar Year 2013

189. For its answer to Paragraph 260, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 216 through 219 as if fully stated herein.

190. Thomas admits the allegations in Paragraph 261.

191. Paragraphs 262 and 263 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 57 – Failure to Timely Report Naphthalene for Calendar Year 2013

192. For its answer to Paragraph 264, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 216 through 219 as if fully stated herein.

193. Thomas denies the allegations in Paragraph 265. Thomas timely filed a Toxic Release Inventory reporting form for 2013 for the Bridgeport facility. Thomas' determination on whether or not naphthalene exceeded the applicable threshold in 2013 was correctly based on EPA guidance referenced in EPA's *Toxic Release Inventory Forms and Instructions*, Revised 2013 Version (EPA 260-R-14-001, dated January 2014) that identified a 1% threshold *de minimis* level for naphthalene (Table 3-4, *EPCRA Section 313: Guidance for Petroleum Terminals and Bulk Storage Facilities*, February 2000 (EPA 745-B-00-002).

194. Paragraphs 266 and 267 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any allegations against Thomas, Thomas denies them.

Thomas Petroleum, LLC Robstown

195. Thomas admits the allegations in Paragraph 268 and 269.

196. In response to Paragraphs 270 and 271, Thomas admits that for 2012 and 2013 Thomas listed NAICS Code 424710 as applicable to the Robstown facility.

Count 58 – Failure to Timely Report 1,2,4-Trimethylbenzene for Calendar Year 2012

197. For its answer to Paragraph 272, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 268 through 271 as if fully stated herein.

198. Thomas admits the allegations in Paragraph 273.

199. Paragraphs 274 and 275 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 59 – Failure to Timely Report Ethylene Glycol for Calendar Year 2012

200. For its answer to Paragraph 276, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 268 through 271 as if fully stated herein.

201. Thomas admits the allegations in Paragraph 277.

202. Paragraphs 278 and 279 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 60 – Failure to Timely Report Methanol for Calendar Year 2012

203. For its answer to Paragraph 280, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 268 through 271 as if fully stated herein.

204. Thomas admits the allegations in Paragraph 281.

205. Paragraphs 282 and 283 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 61 – Failure to Timely Report N-Hexane for Calendar Year 2012

206. For its answer to Paragraph 284, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 268 through 271 as if fully stated herein.

207. Thomas admits the allegations in Paragraph 285.

208. Paragraphs 286 and 287 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 62 – Failure to Timely Report Naphthalene for Calendar Year 2012

209. For its answer to Paragraph 288, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 268 through 271 as if fully stated herein.

210. Thomas admits the allegations in Paragraph 289.

211. Paragraphs 290 and 291 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is

without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 63 – Failure to Timely Report PACs for Calendar Year 2012

212. For its answer to Paragraph 292, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 268 through 271 as if fully stated herein.

213. Thomas admits the allegations in Paragraph 293.

214. Paragraphs 294 and 295 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 64 – Failure to Timely Report Toluene for Calendar Year 2012

215. For its answer to Paragraph 296, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 268 through 271 as if fully stated herein.

216. Thomas admits the allegations in Paragraph 297.

217. Paragraphs 298 and 299 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 65 – Failure to Timely Report Xylene (Mixed Isomers) for Calendar Year 2012

218. For its answer to Paragraph 300, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 268 through 271 as if fully stated herein.

219. Thomas admits the allegations in Paragraph 301.

220. Paragraphs 302 and 303 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 66 – Failure to Timely Report Zinc Compounds for Calendar Year 2012

221. For its answer to Paragraph 304, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 268 through 271 as if fully stated herein.

222. Thomas admits the allegations in Paragraph 305.

223. Paragraphs 306 and 307 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 67 – Failure to Timely Report Naphthalene for Calendar Year 2013

224. For its answer to Paragraph 308, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 268 through 271 as if fully stated herein.

225. Thomas denies the allegations in Paragraph 309. Thomas timely filed a Toxic Release Inventory reporting form for 2013 for the Robstown facility. Thomas' determination on whether or not naphthalene exceeded the applicable threshold in 2013 was correctly based on EPA guidance referenced in EPA's *Toxic Release Inventory Forms and Instructions*, Revised 2013 Version (EPA 260-R-14-001, dated January 2014) that identified a 1% threshold *de minimis* level for naphthalene (Table 3-4, *EPCRA Section 313: Guidance for Petroleum Terminals and Bulk Storage Facilities*, February 2000 (EPA 745-B-00-002).

226. Paragraphs 310 and 311 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any allegations against Thomas, Thomas denies them.

Thomas Petroleum, LLC LaGrange

227. Thomas admits the allegations in Paragraph 312 and 313.

228. In response to Paragraphs 314 and 315, Thomas admits that for 2012 and 2013 Thomas listed NAICS Code 424710 as applicable to the LaGrange facility.

Count 68 – Failure to Timely Report 1,2,4-Trimethylbenzene for Calendar Year 2012

229. For its answer to Paragraph 316, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 312 through 315 as if fully stated herein.

230. Thomas admits the allegations in Paragraph 317.

231. Paragraphs 318 and 319 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 69 – Failure to Timely Report Ethylene Glycol for Calendar Year 2012

232. For its answer to Paragraph 320, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 312 through 315 as if fully stated herein.

233. Thomas admits the allegations in Paragraph 321.

234. Paragraphs 322 and 323 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 70 – Failure to Timely Report Methanol for Calendar Year 2012

235. For its answer to Paragraph 324, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 312 through 315 as if fully stated herein.

236. Thomas admits the allegations in Paragraph 325.

237. Paragraphs 326 and 327 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 71 – Failure to Timely Report N-Hexane for Calendar Year 2012

238. For its answer to Paragraph 328, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 312 through 315 as if fully stated herein.

239. Thomas admits the allegations in Paragraph 329.

240. Paragraphs 330 and 331 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 72 – Failure to Timely Report Methanol for Calendar Year 2012

241. For its answer to Paragraph 332, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 312 through 315 as if fully stated herein.

242. Thomas admits the allegations in Paragraph 333.

243. Paragraphs 334 and 335 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is

without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 73 – Failure to Timely Report PACs for Calendar Year 2012

244. For its answer to Paragraph 336, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 312 through 315 as if fully stated herein.

245. Thomas admits the allegations in Paragraph 337.

246. Paragraphs 338 and 339 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 74 – Failure to Timely Report Toluene for Calendar Year 2012

247. For its answer to Paragraph 340, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 312 through 315 as if fully stated herein.

248. Thomas admits the allegations in Paragraph 341.

249. Paragraphs 342 and 343 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 75 – Failure to Timely Report Xylene (Mixed Isomers) for Calendar Year 2012

250. For its answer to Paragraph 344, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 312 through 315 as if fully stated herein.

251. Thomas admits the allegations in Paragraph 345.

252. Paragraphs 346 and 347 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 76 – Failure to Timely Report Zinc Compounds for Calendar Year 2012

253. For its answer to Paragraph 348, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 312 through 315 as if fully stated herein.

254. Thomas admits the allegations in Paragraph 349.

255. Paragraphs 350 and 351 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 77 – Failure to Timely Report Naphthalene for Calendar Year 2013

256. For its answer to Paragraph 352, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 312 through 315 as if fully stated herein.

257. Thomas denies the allegations in Paragraph 353. Thomas timely filed a Toxic Release Inventory reporting form for 2013 for the LaGrange facility. Thomas' determination on whether or not naphthalene exceeded the applicable threshold in 2013 was correctly based on EPA guidance referenced in EPA's *Toxic Release Inventory Forms and Instructions*, Revised 2013 Version (EPA 260-R-14-001, dated January 2014) that identified a 1% threshold *de minimis* level for naphthalene (Table 3-4, *EPCRA Section 313: Guidance for Petroleum Terminals and Bulk Storage Facilities*, February 2000 (EPA 745-B-00-002).

258. Paragraphs 354 and 355 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any allegations against Thomas, Thomas denies them.

Thomas Petroleum, LLC Laredo

259. Thomas admits the allegations in Paragraph 356 and 357.

260. In response to Paragraphs 358 and 359, Thomas admits that for 2012 and 2013 Thomas listed NAICS Code 424710 as applicable to the Laredo facility.

Count 78 – Failure to Timely Report 1,2,4-Trimethylbenzene for Calendar Year 2012

261. For its answer to Paragraph 360, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 356 through 359 as if fully stated herein.

262. Thomas admits the allegations in Paragraph 361.

263. Paragraphs 362 and 363 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 79 – Failure to Timely Report Diethanolaminefor Calendar Year 2012

264. For its answer to Paragraph 364, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 356 through 359 as if fully stated herein.

265. Thomas admits the allegations in Paragraph 365.

266. Paragraphs 366 and 367 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 80 – Failure to Timely Report Ethylene Glycol for Calendar Year 2012

267. For its answer to Paragraph 368, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 356 through 359 as if fully stated herein.

268. Thomas admits the allegations in Paragraph 369.

269. Paragraphs 370 and 371 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 81 – Failure to Timely Report Methanol for Calendar Year 2012

270. For its answer to Paragraph 372, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 356 through 359 as if fully stated herein.

271. Thomas admits the allegations in Paragraph 373.

272. Paragraphs 374 and 375 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 82 – Failure to Timely Report N-Hexane for Calendar Year 2012

273. For its answer to Paragraph 376, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 356 through 359 as if fully stated herein.

274. Thomas admits the allegations in Paragraph 377.

275. Paragraphs 378 and 379 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is

without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 83 – Failure to Timely Report Naphthalenefor Calendar Year 2012

276. For its answer to Paragraph 380, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 356 through 359 as if fully stated herein.

277. Thomas admits the allegations in Paragraph 381.

278. Paragraphs 382 and 383 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 84 – Failure to Timely Report PACs for Calendar Year 2012

279. For its answer to Paragraph 384, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 356 through 359 as if fully stated herein.

280. Thomas admits the allegations in Paragraph 385.

281. Paragraphs 386 and 387 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 85 – Failure to Timely Report Toluene for Calendar Year 2012

282. For its answer to Paragraph 388, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 356 through 359 as if fully stated herein.

283. Thomas admits the allegations in Paragraph 389.

284. Paragraphs 390 and 391 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 86 – Failure to Timely Report Xylene (Mixed Isomers) for Calendar Year 2012

285. For its answer to Paragraph 392, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 356 through 359 as if fully stated herein.

286. Thomas admits the allegations in Paragraph 393.

287. Paragraphs 394 and 395 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 87 – Failure to Timely Report Zinc Compounds for Calendar Year 2012

288. For its answer to Paragraph 396, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 356 through 359 as if fully stated herein.

289. Thomas admits the allegations in Paragraph 397.

290. Paragraphs 398 and 399 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 88 – Failure to Timely Report Diethanolamine for Calendar Year 2013

291. For its answer to Paragraph 400, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 356 through 359 as if fully stated herein.

292. Thomas admits the allegations in Paragraph 401.

293. Paragraphs 402 and 403 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 89 – Failure to Timely Report Naphthalene for Calendar Year 2013

294. For its answer to Paragraph 404, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 356 through 359 as if fully stated herein.

295. Thomas denies the allegations in Paragraph 405. Thomas timely filed a Toxic Release Inventory reporting form for 2013 for the Laredo facility. Thomas' determination on whether or not naphthalene exceeded the applicable threshold in 2013 was correctly based on EPA guidance referenced in EPA's *Toxic Release Inventory Forms and Instructions*, Revised 2013 Version (EPA 260-R-14-001, dated January 2014) that identified a 1% threshold *de minimis* level for naphthalene (Table 3-4, *EPCRA Section 313: Guidance for Petroleum Terminals and Bulk Storage Facilities*, February 2000 (EPA 745-B-00-002).

296. Paragraphs 406 and 407 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any allegations against Thomas, Thomas denies them.

Thomas Petroleum, LLC Odessa

297. Thomas admits the allegations in Paragraph 408 and 409.

298. In response to Paragraphs 410 and 411, Thomas admits that for 2012 and 2013 Thomas listed NAICS Code 424710 as applicable to the Odessa facility.

Count 90 – Failure to Timely Report 1,2,4-Trimethylbenzene for Calendar Year 2012

299. For its answer to Paragraph 412, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 408 through 411 as if fully stated herein.

300. Thomas admits the allegations in Paragraph 413.

301. Paragraphs 414 and 415 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 91 – Failure to Timely Report Diethanolamine for Calendar Year 2012

302. For its answer to Paragraph 416, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 408 through 411 as if fully stated herein.

303. Thomas admits the allegations in Paragraph 417.

304. Paragraphs 418 and 419 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 92 – Failure to Timely Report Ethylene Glycol for Calendar Year 2012

305. For its answer to Paragraph 420, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 408 through 411 as if fully stated herein.

306. Thomas admits the allegations in Paragraph 421.

307. Paragraphs 422 and 423 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is

without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 93 – Failure to Timely Report Methanol for Calendar Year 2012

308. For its answer to Paragraph 424, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 408 through 411 as if fully stated herein.

309. Thomas admits the allegations in Paragraph 425.

310. Paragraphs 426 and 427 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 94 – Failure to Timely Report N-Hexane for Calendar Year 2012

311. For its answer to Paragraph 428, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 408 through 411 as if fully stated herein.

312. Thomas admits the allegations in Paragraph 429.

313. Paragraphs 430 and 431 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 95 – Failure to Timely Report Naphthalene for Calendar Year 2012

314. For its answer to Paragraph 432, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 408 through 411 as if fully stated herein.

315. Thomas admits the allegations in Paragraph 433.

316. Paragraphs 434 and 435 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 96 – Failure to Timely Report PACs for Calendar Year 2012

317. For its answer to Paragraph 436, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 408 through 411 as if fully stated herein.

318. Thomas admits the allegations in Paragraph 437.

319. Paragraphs 438 and 439 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 97 – Failure to Timely Report Toluene for Calendar Year 2012

320. For its answer to Paragraph 440, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 408 through 411 as if fully stated herein.

321. Thomas admits the allegations in Paragraph 441.

322. Paragraphs 442 and 443 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 98 – Failure to Timely Report Xylene (Mixed Isomers) for Calendar Year 2012

323. For its answer to Paragraph 444, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 408 through 411 as if fully stated herein.

324. Thomas admits the allegations in Paragraph 445.

325. Paragraphs 446 and 447 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 99 – Failure to Timely Report Zinc Compounds for Calendar Year 2012

326. For its answer to Paragraph 448, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 408 through 411 as if fully stated herein.

327. Thomas admits the allegations in Paragraph 449.

328. Paragraphs 450 and 451 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 100 – Failure to Timely Report Diethanolamine for Calendar Year 2013

329. For its answer to Paragraph 452, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 408 through 411 as if fully stated herein.

330. Thomas admits the allegations in Paragraph 453.

331. Paragraphs 454 and 455 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 101 – Failure to Timely Report Naphthalene for Calendar Year 2013

332. For its answer to Paragraph 456, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 408 through 411 as if fully stated herein.

333. Thomas denies the allegations in Paragraph 457. Thomas timely filed a Toxic Release Inventory reporting form for 2013 for the Odessa facility. Thomas' determination on whether or not naphthalene exceeded the applicable threshold in 2013 was correctly based on EPA guidance referenced in EPA's *Toxic Release Inventory Forms and Instructions*, Revised 2013 Version (EPA 260-R-14-001, dated January 2014) that identified a 1% threshold *de minimis* level for naphthalene (Table 3-4, *EPCRA Section 313: Guidance for Petroleum Terminals and Bulk Storage Facilities*, February 2000 (EPA 745-B-00-002).

334. Paragraphs 458 and 459 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any allegations against Thomas, Thomas denies them.

Thomas Petroleum, LLC San Benito

335. Thomas admits the allegations in Paragraph 460 and 461.

336. In response to Paragraphs 462 and 463, Thomas admits that for 2012 and 2013 Thomas listed NAICS Code 424710 as applicable to the San Benito facility.

Count 102 – Failure to Timely Report 1,2,4-Trimethylbenzene for Calendar Year 2012

337. For its answer to Paragraph 464, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 460 through 463 as if fully stated herein.

338. Thomas admits the allegations in Paragraph 465.

339. Paragraphs 466 and 467 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is

without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 103 – Failure to Timely Report Ethylene Glycol for Calendar Year 2012

340. For its answer to Paragraph 468, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 460 through 463 as if fully stated herein.

341. Thomas admits the allegations in Paragraph 469.

342. Paragraphs 470 and 471 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 104 – Failure to Timely Report N-Hexane for Calendar Year 2012

343. For its answer to Paragraph 472, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 460 through 463 as if fully stated herein.

344. Thomas admits the allegations in Paragraph 473.

345. Paragraphs 474 and 475 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 105 – Failure to Timely Report Naphthalene for Calendar Year 2012

346. For its answer to Paragraph 476, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 460 through 463 as if fully stated herein.

347. Thomas admits the allegations in Paragraph 477.

348. Paragraphs 478 and 479 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 106 – Failure to Timely Report Toluene for Calendar Year 2012

349. For its answer to Paragraph 480, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 460 through 463 as if fully stated herein.

350. Thomas admits the allegations in Paragraph 481.

351. Paragraphs 482 and 483 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 107 – Failure to Timely Report Xylene (Mixed Isomers) for Calendar Year 2012

352. For its answer to Paragraph 484, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 460 through 463 as if fully stated herein.

353. Thomas admits the allegations in Paragraph 485.

354. Paragraphs 486 and 487 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 108 – Failure to Timely Report Zinc Compounds for Calendar Year 2012

355. For its answer to Paragraph 488, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 460 through 463 as if fully stated herein.

356. Thomas admits the allegations in Paragraph 489.

357. Paragraphs 490 and 491 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 109 – Failure to Timely Report 1,2,4-Trimethylbenzene for Calendar Year 2013

358. For its answer to Paragraph 492, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 460 through 463 as if fully stated herein.

359. Thomas admits the allegations in Paragraph 493.

360. Paragraphs 494 and 495 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 110 – Failure to Timely Report Ethylene Glycol for Calendar Year 2013

361. For its answer to Paragraph 496, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 460 through 463 as if fully stated herein.

362. Thomas admits the allegations in Paragraph 497.

363. Paragraphs 498 and 499 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 111 – Failure to Timely Report N-Hexane for Calendar Year 2013

364. For its answer to Paragraph 500, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 460 through 463 as if fully stated herein.

365. Thomas admits the allegations in Paragraph 501.

366. Paragraphs 502 and 503 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 112 – Failure to Timely Report Toluene for Calendar Year 2013

367. For its answer to Paragraph 504, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 460 through 463 as if fully stated herein.

368. Thomas admits the allegations in Paragraph 505.

369. Paragraphs 506 and 507 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 113 – Failure to Timely Report Xylene (Mixed Isomers) for Calendar Year 2013

370. For its answer to Paragraph 508, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 460 through 463 as if fully stated herein.

371. Thomas admits the allegations in Paragraph 509.

372. Paragraphs 510 and 511 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is

without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 114 – Failure to Timely Report Zinc Compounds for Calendar Year 2013

373. For its answer to Paragraph 512, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 460 through 463 as if fully stated herein.

374. Thomas admits the allegations in Paragraph 513.

375. Paragraphs 514 and 515 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Thomas Petroleum, LLC Tyler

376. Thomas admits the allegations in Paragraph 516 and 517.

377. In response to Paragraphs 518 and 519, Thomas admits that for 2012 and 2013 Thomas listed NAICS Code 424710 as applicable to the Tyler facility.

Count 115 – Failure to Timely Report 1,2,4-Trimethylbenzene for Calendar Year 2012

378. For its answer to Paragraph 520, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 516 through 519 as if fully stated herein.

379. Thomas admits the allegations in Paragraph 521.

380. Paragraphs 522 and 523 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 116 – Failure to Timely Report Diethanolamine for Calendar Year 2012

381. For its answer to Paragraph 524, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 516 through 519 as if fully stated herein.

382. Thomas admits the allegations in Paragraph 525.

383. Paragraphs 526 and 527 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 117 – Failure to Timely Report Methanol for Calendar Year 2012

384. For its answer to Paragraph 528, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 516 through 519 as if fully stated herein.

385. Thomas admits the allegations in Paragraph 529.

386. Paragraphs 530 and 531 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 118 – Failure to Timely Report N-Hexane for Calendar Year 2012

387. For its answer to Paragraph 532, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 516 through 519 as if fully stated herein.

388. Thomas admits the allegations in Paragraph 533.

389. Paragraphs 534 and 535 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is

without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 119 – Failure to Timely Report Naphthalene for Calendar Year 2012

390. For its answer to Paragraph 536, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 516 through 519 as if fully stated herein.

391. Thomas admits the allegations in Paragraph 537.

392. Paragraphs 538 and 539 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 120 – Failure to Timely Report PACs for Calendar Year 2012

393. For its answer to Paragraph 540, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 516 through 519 as if fully stated herein.

394. Thomas admits the allegations in Paragraph 541.

395. Paragraphs 542 and 543 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 121 – Failure to Timely Report Zinc Compounds for Calendar Year 2012

396. For its answer to Paragraph 544, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 516 through 519 as if fully stated herein.

397. Thomas admits the allegations in Paragraph 545.

398. Paragraphs 546 and 547 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 122 – Failure to Timely Report Diethanolamine for Calendar Year 2013

399. For its answer to Paragraph 548, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 516 through 519 as if fully stated herein.

400. Thomas admits the allegations in Paragraph 549.

401. Paragraphs 550 and 551 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 123 – Failure to Timely Report Naphthalene for Calendar Year 2013

402. For its answer to Paragraph 552, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 516 through 519 as if fully stated herein.

403. Thomas denies the allegations in Paragraph 553. Thomas timely filed a Toxic Release Inventory reporting form for 2013 for the Tyler facility. Thomas' determination on whether or not naphthalene exceeded the applicable threshold in 2013 was correctly based on EPA guidance referenced in EPA's *Toxic Release Inventory Forms and Instructions*, Revised 2013 Version (EPA 260-R-14-001, dated January 2014) that identified a 1% threshold *de minimis* level for naphthalene (Table 3-4, *EPCRA Section 313: Guidance for Petroleum Terminals and Bulk Storage Facilities*, February 2000 (EPA 745-B-00-002).

404. Paragraphs 554 and 555 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any allegations against Thomas, Thomas denies them.

Thomas Petroleum, LLC Victoria

405. Thomas admits the allegations in Paragraph 556 and 557.

406. In response to Paragraphs 558 and 559, Thomas admits that for 2012 and 2013 Thomas listed NAICS Code 424710 as applicable to the Victoria facility.

Count 124 – Failure to Timely Report 1,2,4-Trimethylbenzene for Calendar Year 2012

407. For its answer to Paragraph 560, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 556 through 559 as if fully stated herein.

408. Thomas admits the allegations in Paragraph 561.

409. Paragraphs 562 and 563 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 125 – Failure to Timely Report Diethanolamine for Calendar Year 2012

410. For its answer to Paragraph 564, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 556 through 559 as if fully stated herein.

411. Thomas admits the allegations in Paragraph 565.

412. Paragraphs 566 and 567 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 126 – Failure to Timely Report Ethylene Glycol for Calendar Year 2012

413. For its answer to Paragraph 568, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 556 through 559 as if fully stated herein.

414. Thomas admits the allegations in Paragraph 569.

415. Paragraphs 570 and 571 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 127 – Failure to Timely Report Methanol for Calendar Year 2012

416. For its answer to Paragraph 572, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 556 through 559 as if fully stated herein.

417. Thomas admits the allegations in Paragraph 573.

418. Paragraphs 574 and 575 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 128 – Failure to Timely Report N-Hexane for Calendar Year 2012

419. For its answer to Paragraph 576, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 556 through 559 as if fully stated herein.

420. Thomas admits the allegations in Paragraph 577.

421. Paragraphs 578 and 579 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is

without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 129 – Failure to Timely Report Naphthalene for Calendar Year 2012

422. For its answer to Paragraph 580, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 556 through 559 as if fully stated herein.

423. Thomas admits the allegations in Paragraph 581.

424. Paragraphs 582 and 583 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 130 – Failure to Timely Report PACs for Calendar Year 2012

425. For its answer to Paragraph 584, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 556 through 559 as if fully stated herein.

426. Thomas admits the allegations in Paragraph 585.

427. Paragraphs 586 and 587 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 131 – Failure to Timely Report Toluene for Calendar Year 2012

428. For its answer to Paragraph 588, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 556 through 559 as if fully stated herein.

429. Thomas admits the allegations in Paragraph 589.

430. Paragraphs 590 and 591 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 132 – Failure to Timely Report Xylene (Mixed Isomers) for Calendar Year 2012

431. For its answer to Paragraph 592, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 556 through 559 as if fully stated herein.

432. Thomas admits the allegations in Paragraph 593.

433. Paragraphs 594 and 595 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 133 – Failure to Timely Report Zinc Compounds for Calendar Year 2012

434. For its answer to Paragraph 596, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 556 through 559 as if fully stated herein.

435. Thomas admits the allegations in Paragraph 597.

436. Paragraphs 598 and 599 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 134 – Failure to Timely Report Diethanolamine for Calendar Year 2013

437. For its answer to Paragraph 600, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 556 through 559 as if fully stated herein.

438. Thomas admits the allegations in Paragraph 601.

439. Paragraphs 602 and 603 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied.

Count 135 – Failure to Timely Report Naphthalene for Calendar Year 2013

440. For its answer to Paragraph 604, Thomas re-urges and incorporates by reference all of its responses to Paragraphs 1 through 19 and Paragraphs 556 through 559 as if fully stated herein.

441. Thomas denies the allegations in Paragraph 605. Thomas timely filed a Toxic Release Inventory reporting form for 2013 for the Victoria facility. Thomas' determination on whether or not naphthalene exceeded the applicable threshold in 2013 was correctly based on EPA guidance referenced in EPA's *Toxic Release Inventory Forms and Instructions*, Revised 2013 Version (EPA 260-R-14-001, dated January 2014) that identified a 1% threshold *de minimis* level for naphthalene (Table 3-4, *EPCRA Section 313: Guidance for Petroleum Terminals and Bulk Storage Facilities*, February 2000 (EPA 745-B-00-002).

442. Paragraphs 606 and 607 set forth legal conclusions to which no response is required. To the extent these paragraphs are deemed to state any allegations against Thomas, Thomas denies them.

IV. PROPOSED CIVIL PENALTY

443. Paragraphs 608-633 set forth legal conclusions to which no response is required. To the extent Paragraphs 608-633 are deemed to state any factual allegations against Thomas, Thomas is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations stated in these paragraphs, and the allegations are therefore denied. Notwithstanding the foregoing, Thomas denies Thomas is subject to civil penalties or that such penalties would be appropriate given Thomas's cooperation, attitude, good faith efforts to comply, voluntary disclosure and other factors.

PILOT ANSWER

444. Pilot denies the allegations in Paragraphs 1-633. Pilot is not a correct party in this proceeding and did not own or operate any of the twelve (12) facilities identified in Paragraph 9 at all relevant times.

V. THOMAS AND PILOT REQUEST FOR HEARING

445. Thomas and Pilot hereby request an Administrative Hearing on the issues raised by the Administrative Complaint and this Answer.

VI. AFFIRMATIVE DEFENSES

FIRST DEFENSE

446. For purposes of penalty determination, although multiple facilities and chemicals may be affected, any and all alleged actions or omissions concerning Thomas's compliance with Section 313 of EPCRA, 42 U.S.C. § 11023 and related regulations should be treated as a single lapse (not multiple violations) that was voluntarily discovered, disclosed and corrected by Thomas.

447. Thomas's voluntary disclosure, attitude and cooperation have not adequately been considered as mitigating factors.

448. Thomas's single alleged lapse—the failure to report—has not been adequately considered as a mitigating factor.

SECOND DEFENSE

449. Thomas timely filed Toxic Release Inventory reports for 2013. Thomas correctly based its determination in 2013 on whether to report naphthalene exceeded the reporting threshold on EPA guidance referenced in EPA's *Toxic Release Inventory Forms and Instructions*, Revised 2013 Version (EPA 260-R-14-001, dated January 2014) that identified a 1% threshold *de minimis* level for naphthalene (Table 3-4, *EPCRA Section 313: Guidance for Petroleum Terminals and Bulk Storage Facilities*, February 2000 (EPA 745-B-00-002). Any and all alleged actions or omissions concerning Thomas's

compliance with Section 313 of EPCRA, 42 U.S.C. § 11023 and related regulations for 2013 regarding naphthalene are attributable to Thomas's good faith reliance on EPA's own guidance on the naphthalene reporting threshold that was not retracted.

THIRD DEFENSE

450. Late Toxic Release Inventory reporting for the year 2012 would have served no purpose because the purpose of Section 313 of EPCRA, 42 U.S.C. §11023 and related regulations is to publish the annual Toxic Release Inventory. The inventory had already been published by the time the alleged need to report for 2012 was discovered.

FOURTH DEFENSE

451. Any and all alleged actions or omissions concerning Thomas's delayed compliance with Section 313 of EPCRA, 42 U.S.C. § 11023 and related regulations resulted in no harm due to the relatively low levels of emissions involved. Thomas was eligible to file Form A reports for over 90% of the violations alleged in the Complaint.

452. The absence of harm has not adequately been considered as a mitigating factor.

FIFTH DEFENSE

453. Any and all alleged actions or omissions concerning Thomas's compliance with Section 313 of EPCRA, 42 U.S.C. § 11023 and related regulations that were dependent on an employee headcount analysis involved the retrieval of extensive and complicated information, in particular regarding part-time employees and truck drivers that may have worked out of multiple facilities. Any alleged employee headcount errors were internally discovered and corrected by Thomas on its own initiative.

454. Thomas's good faith efforts to comply have not adequately been considered as a mitigating factor.

SIXTH DEFENSE

455. Thomas has created no danger to health and public safety or human welfare, nor any danger to the environment.

SEVENTH DEFENSE

456. Any and all alleged actions or omissions concerning Thomas's compliance with Section 313 of EPCRA, 42 U.S.C. § 11023 and related regulations have not resulted in any economic benefit to Thomas.

EIGHTH DEFENSE

457. The allegations against Thomas are historical, and most of the facilities involved are not a source for future concerns: the San Benito and Hobbs facilities closed in 2015 and 2016, respectively, and approximately six (6) of the other ten (10) facilities currently have fewer than ten (10) employees.

NINTH DEFENSE

458. All of the alleged violations relate to Toxic Release Inventory reports that allegedly should have been submitted prior to December 2014, when Thomas was acquired. Thomas has timely filed Toxic Release Inventory reports since the acquisition, and has promptly voluntarily disclosed and fixed any 2012 or 2013 Toxic Release Inventory issues discovered following the acquisition.

459. Thomas' compliance and good faith efforts to comply since Thomas was acquired have not adequately been considered as a mitigating factor.

TENTH DEFENSE

460. The Complaint is barred in whole or in part by the doctrines of waiver and/or estoppel.

ELEVENTH DEFENSE

461. The Complaint fails to state a claim upon which relief can be granted against Thomas.

TWELFTH DEFENSE

462. Based on numerous factors, including Thomas' voluntary disclosure, cooperation, attitude, good faith efforts to comply, among others, any proposed penalty by Complainant is excessive, inappropriate and unwarranted.

THIRTEENTH DEFENSE

463. Complainant's allegations are barred by laches.

FOURTEENTH DEFENSE

464. Complainant's allegations are not supported by substantial evidence.

FIFTEENTH DEFENSE

465. Any penalty assessment by Complainant constitutes an abuse of discretion.

SIXTEENTH DEFENSE

466. Complainants allegations against Thomas are barred for any facility and chemical subject to Toxic Release Inventory reporting on Form A because the applicable EPA penalty policy, *Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-to-Know Act (1986) and Section 6607 of the Pollution Prevention Act (1990)*, Revised April 12, 2001, is addressed only to Form R and does not reference or apply to Form A.

SEVENTEENTH DEFENSE

467. Complainant's allegations against Pilot are barred because in 2012 and 2013, Pilot did not own or operate any of the twelve (12) facilities identified in Paragraph 9, was not the parent corporation of any of these facilities, and had no responsibility to report for them.

EIGHTEENTH DEFENSE

468. Complainant's allegations against Pilot are barred by the statute of limitations.

VII. RESERVATION OF RIGHT TO AMEND ANSWER AND ADD AFFIRMATIVE DEFENSES

469. Thomas and Pilot reserve the right to amend this Answer and to add further affirmative defenses, including those which may become apparent through discovery and development of this case.

DATED: May 20, 2019

Respectfully submitted,

PORTER HEDGES LLP

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CERTIFICATE OF SERVICE

I hereby certify that on May 20, 2019, the original and one copy of the foregoing Answer to Complaint, Affirmative Defenses and Request for Hearing ("Answer') was sent via e-mail to the Regional Hearing Clerk, U.S. EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, and via Federal Express. A true and correct copy of the Answer was also sent via Federal Express to:

James Murdock
Office of Regional Counsel
U.S. EPA – Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733

David Riley
EPCRA 313 Enforcement Officer
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