



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

MAR 19 2014

REPLY TO THE ATTENTION OF:

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Karen Bedore  
The Scoular Company  
250 Marquette Avenue  
Suite 1050  
Minneapolis, MN 55401

Re: *In the Matter of: The Scoular Company, Peotone, Illinois*  
Docket No. EPA 5-14-113(a)-IL-11

Dear Ms. Bedore:

I have enclosed a signed Administrative Consent Order (ACO) with The Scoular Company under the Clean Air Act. Pursuant to Paragraph 59, the ACO is effective on the date of signature by the Director of the Air and Radiation Division.

If you have any questions on this matter, please do not hesitate to call Ms. Jennifer Wilson, P.E. of my staff, at (312)353-3115, or, with legal questions, Andre Daugavietis, Associate Regional Counsel, at (312)886-6663.

Sincerely,

A handwritten signature in black ink, appearing to read "Nathan A. Frank".

Nathan A. Frank, P.E.  
Chief  
Air Enforcement and Compliance Assurance Section (IL/IN)

Enclosure

cc: Regional Hearing Clerk, E-19J  
Andre Daugavietis, C-14J  
Jennifer Wilson, AE-17J  
David Bloomberg, IEPA

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

<b>In the Matter of:</b>	)	<b>EPA-5-14-113(a)-IL-11</b>
	)	
<b>The Scoular Company</b>	)	<b>Proceeding Under Sections 113(a)(1),</b>
<b>Peotone, Illinois</b>	)	<b>(a)(3), 114(a)(1) of the Clean Air Act</b>
	)	<b>42 U.S.C. §§ 7413(a)(1),(a)(3)</b>
	)	<b>and 7414(a)(1)</b>
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**Administrative Consent Order**

1. The Director of the Air and Radiation Division, U.S. Environmental Protection Agency, Region 5, and The Scoular Company (Scoular) have determined to enter into this Order pursuant to Sections 113(a)(1), (a)(3) and 114(a)(1) of the Clean Air Act (CAA), 42 U.S.C. §§ 7413(a)(1), (a)(3) and 7414(a)(1)

2. This Order applies to the grain elevator facility located at 28451 South Route 45, Peotone, Illinois, owned and operated, since February 27, 2013, by Scoular (the Facility).

**Statutory and Regulatory Background**

3. Each state must submit to the Administrator of EPA a plan for attaining and maintaining the National Ambient Air Quality Standards under Section 110 of the CAA, 42 U.S.C. § 7410.

4. On May 31, 1972, EPA approved Illinois Pollution Control Board (IPCB) Rule 103 as part of the federally enforceable State Implementation Plan (SIP) for Illinois. 37 Fed. Reg. 10842. IPCB Rule 103 is now codified at 35 Ill. Adm. Code §§ 201.142 and 201.143

5. The Illinois SIP at Rule 103(a)(1) [35 Ill. Adm. Code 201.142] states that no person shall cause or allow the construction of any new emission source or any new air pollution

control equipment, or cause or allow the modification of any existing emission source of air pollution equipment, without first obtaining a construction permit from the Illinois Environmental Protection Agency (IEPA).

6. The Illinois SIP at Rule 103(b)(1) [35 Ill. Adm. Code 201.143] states that no person shall cause or allow the operation of any emission source or new air pollution control equipment, for which a construction permit is required, without first obtaining an operating permit from IEPA.

7. On February 21, 1980, EPA approved IPCB Rule 203 as part of the federally enforceable SIP for the State of Illinois. 45 Fed. Reg. 11493. IPCB Rule 203 is codified, in part, at 35 Ill. Admin. Code §§ 212.461 and 212.462.

8. The Illinois SIP at Rule 203(d)(9)(A) [35 Ill. Admin. Code § 212.461(b)] establishes certain housekeeping practices applicable to all grain-handling and grain-drying operations regardless of size, including:

- i. Air pollution control devices shall be checked daily and cleaned as necessary to insure proper operation.
- ii. Cleaning and Maintenance.
  - a. Floors shall be kept swept and cleaned from boot pit to cupola floor. Roof or bin decks and other exposed flat surfaces shall be kept clean of grain and dust that would tend to rot or become airborne.
  - b. Cleaning shall be handled in such a manner as not to permit dust to escape to the atmosphere.
  - c. The yard and surrounding area, including but not limited to ditches and curbs, shall be cleaned to prevent the accumulation of rotting grain.

iii. Dump pit.

- a. Aspiration equipment shall be maintained and operated.
- b. Dust control devices shall be maintained and operated.

iv. Head House. The head house shall be maintained in such a fashion that visible quantities of dust or dirt are not allowed to escape to the atmosphere.

v. Property. The yard and driveway of any source shall be asphalted, oiled, or equivalently treated to control dust.

vi. Housekeeping Check List. Housekeeping check lists to be developed by the Agency shall be completed by the manager and maintained on the premises for inspection by Agency personnel.

9. The Illinois SIP at Rule 203(d)(9)(B) [35 Ill. Admin. Code § 212.462] applies to existing grain-handling operations with a throughput greater than 300,000 bushels/year.

10. The Illinois SIP at Rule 203(d)(9)(B)(ii)(a)(1) [35 Ill. Admin. Code § 212.462(b)(1)(A)] requires that grain-handling operations apply induced draft to major dump pits and their associated equipment (including, but not limited to boots, hoppers and legs) to such an extent that a minimum face velocity is maintained at the effective grate surface sufficient to contain particulate emissions generated in unloading operations in accordance with the formula provided.

11. The Illinois SIP at Rule 203(d)(9)(B)(ii)(a)(2) [35 Ill. Admin. Code § 212.462(b)(1)(B)] requires that the induced draft air stream from the dump pits for grain-handling facilities having a grain throughput not greater than 2,000,000 bushels per year or located outside of a major population area is collected and conveyed through air pollution control

equipment which has an overall rated and actual particulate collection efficiency of not less than 90% by weight.

12. The Illinois SIP at Rule 203(d)(9)(B)(ii)(a)(3) [35 Ill. Admin. Code § 212.462(b)(1)(C)] requires that the induced draft air stream from the dump pits of grain-handling facilities having a grain throughput greater than 2,000,000 bushels per year and located inside of a major population area is collected and conveyed through air pollution control equipment which has an overall rated and actual particulate collection efficiency of not less than 98% by weight.

13. The Illinois SIP at Rule 203(d)(9)(B)(ii)(a)(4) [35 Ill. Admin. Code § 212.462(b)(1)(D)] requires that means or devices (including, but not limited to quick-closing doors, air curtains or wind deflectors) be employed to prevent a wind velocity in excess of 50% of the induced draft face velocity at the pit; provided, however, that such means or devices do not have to achieve the same degree of prevention when the ambient air wind exceeds 25 mph.

14. The Illinois SIP at Rule 203(d)(9)(B)(iii) [35 Ill. Admin. Code § 212.462(c)] states that an internal transferring area shall be enclosed to the extent necessary to prohibit visible particulate matter emissions, directly into the atmosphere. This section also states that air contaminants collected from internal transferring operations for grain-handling sources having a grain throughput less than 2 million bushels per year shall be collected and conveyed through air pollution control equipment which has a rated and actual particulate removal efficiency of not less than 90% by weight prior to release into the atmosphere. The section further states that grain-handling facilities having a grain throughput exceeding 2 million bushels per year and located in a major population area shall be collected and conveyed through air pollution control equipment which has a rated and actual particulate removal efficiency of not less than 98% by weight prior to release into the atmosphere.

15. The Illinois SIP at Rule 203(d)(9)(B)(ii)(b) [35 Ill. Admin. Code § 212.462(b)(2)] also provides for any equivalent method, technique, system or combination thereof adequate to achieve, at a minimum, a particulate matter emission reduction equal to the reductions set forth in the Illinois SIP at Rule 203(d)(9)(B)(ii)(a) [35 Ill. Admin. Code § 212.462(b)(1)].

16. The Illinois SIP at Part 211 [35 Ill. Admin. Code § 211.3210] defines “internal transferring area” as “areas and associated equipment used for conveying grain among the various grain operations.”

17. The Illinois SIP at Rule 203(d)(9)(B)(iv)(a) [35 Ill. Admin. Code § 212.462(d)(1)] requires truck and hopper car loading to “employ socks, sleeves or equivalent devices which extend 6 inches below the sides of the receiving vehicle except for topping off.” The rule also allows choke loading as an equivalent method of compliance as long as “the discharge is no more than 12 inches above the sides of the receiving vehicle.”

18. The Illinois SIP at Part 211 [35 Ill. Admin. Code § 211.3610] defines “major populations area” to include Will County, Illinois.

19. Under Section 113(a)(1) of the CAA, 42 U.S.C. § 7413 (a)(1), the Administrator of EPA may issue an order requiring compliance to any person who has violated or is violating a SIP. The Administrator has delegated this authority to the Director of the Air and Radiation Division.

20. The Administrator of EPA may require any person who owns or operates an emission source to make reports; install, use and maintain monitoring equipment; sample emissions; and provide information required by the Administrator under Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1). The Administrator has delegated this authority to the Director of the Air and Radiation Division.

**Background: Enforcement Against Prior Owner and Permit Issuance**

21. Andres & Wilton Farmers Grain and Supply Company (Prior Owner) owned the Facility until February 27, 2013, when the Facility was purchased by Scoular.

22. On July 26, 2012, EPA personnel performed an inspection of the Facility. At the time, the Facility was owned and operated by Andres & Wilton. During the inspection, EPA personnel observed the following:

- i. Dump pit area: The dump pit sheds were open at both ends and the doors on the sheds were not used. The dump pits did not have induced draft, and, during the inspection, a pile of grain had accumulated on the floor grating of the dump pit in use. The pile was slowly draining to the piping beneath the floor. Visible emissions were observed while trucks were unloading
- ii. Property: Dirt and gravel driveways were dusty. Grain was scattered on the dirt driveways and on the yard of the Facility.
- iii. Internal Transferring Area: Air contaminants from the internal transferring area were not collected and conveyed to any pollution control device.
- iv. Loadout Areas: sleeves or equivalent devices were not extending into trucks that were being loaded. Visible emissions were observed while trucks were being loaded.

23. On August 17, 2012 EPA issued a Notice and Finding of Violation, EPA-5-12-IL-14 (NOV) to Prior Owner, which alleged, inter alia, that Prior Owner operated without the necessary air permits and in violation of the SIP. The NOV alleged the following:

- i. By operating dump pits without induced draft, the Facility is in violation of Rule 203(d)(9)(B)(ii)(a)(2) of the Illinois SIP [35 Ill. Admin. Code §§ 212.462(b)(1)(A) and (B)].
- ii. By failing to employ a means or device, including quick-closing doors, air curtains or wind deflectors, to prevent a wind velocity in excess of 50% of the induced draft face velocity at the dump pit area, the Facility is in violation of Rule 203(d)(9)(B)(ii)(a)(4) of the Illinois SIP [35 Ill. Admin. Code § 212.462(b)(1)(D)].
- iii. By failing to use socks or sleeves that extend six inches into trucks during loading, the Facility is in violation of Rule 203(d)(9)(B) (iv)(a) of the Illinois SIP [35 Ill. Admin. Code § 212.462(d)(1)] and Paragraph 6.e.i. of operating permit #76010310.
- iv. By failing to properly perform housekeeping on the yard and surfaces, the Facility is in violation of Rule 203(d)(9)(A)(ii) of the Illinois SIP [35 Ill. Admin. Code § 212.461(b)(2)].
- v. The Facility is in violation of Rule 203(d)(9)(A)(v) of the Illinois SIP [35 Ill. Admin. Code § 212.461(b)(5)] by failing to conduct appropriate housekeeping practices at the parking areas and driveway.

24. On September 28, 2012, Prior Owner filed a permit application with the IEPA, to address the alleged violations.

25. On December 6, 2012 EPA issued a Notice of Intent to File a Civil and Administrative Complaint To Prior Owner.

26. On December 11, 2012, the IEPA issued a JOINT CONSTRUCTION AND REVISED OPERATING PERMIT to Prior Owner (Permit #12090040).

27. Scoular represents that on February 27, 2013 the Prior Owner executed an asset-purchase transaction with Scoular, and on that date Scoular assumed ownership of the Facility.

28. On April 10, 2013, upon the request of Scoular, the name of the permittee of Permit #12090040 was changed from Prior Owner to Scoular.

29. Condition 4.c.ii of Permit #12090040 provides that, "The grain elevator shall be inspected for presence of visible emissions from internal transfer and cleaning, while such activity is occurring, at least once each week when such activity is performed."

30. Condition 4.d.i of Permit #12090040 provides that, "Grain load-out shall be conducted with sleeves extending to within at least 6 inches below the sides of the receiving vehicle except for topping off."

31. Condition 4.d.ii of Permit #12090040 provides that, "Grain load-out sleeves shall be inspected for proper operation while load-out is occurring, at least once each week when grain load-out is performed."

### Findings

32. Scoular is a corporation authorized to do business in the State of Illinois, and as such, is a "person" as that term is defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

33. The Facility is in Will County, which is designated as a Major Population Area. The Facility has a total annual grain throughput of greater than 300,000 bushels and processes soybeans, corn, oats, and wheat, using trucks, two dump pits, one of which is considered a Major Dump Pit according to the regulations, an internal transferring area, belt conveyors, two dryers,

and storage bins that create particulate matter. Scoular plans a grain throughput for the Facility greater than 2,000,000 bushels/year in the upcoming years.

34. At all times relevant to this Order, the Facility was subject to the provisions of the Illinois SIP at Rule 203(d)(9)(A) [35 Ill. Admin. Code § 212.461] and Rule 203(d)(9)(B) [35 Ill. Admin. Code § 212.462].

35. Scoular stated that Scoular and Prior Owner agreed to execute the sale subject to Prior Owner's agreement to accept and assume responsibility for prior violations, including penalties, and Scoular, as the new owner, agreeing to accept and assume responsibility for compliance.

#### **Compliance Program**

36. Within 60 days of the effective date of this Order, Scoular must submit permit applications for the construction and operating permits for the items required in this order in accordance with the Illinois SIP at Rule 103(a)(1) [35 Ill. Admin. Code § 201.142] and Rule 103(b)(1) [35 Ill. Admin. Code § 201.143].

37. Scoular agrees to immediately implement the following program for the Facility in accordance with Illinois SIP at Rule 203(d)(9)[35 Ill. Admin. Code § 212.461]:

- i. Once the new air pollution control devices are installed and operating, they "shall be checked daily and cleaned as necessary to insure proper operation."
- ii. Scoular shall include checking of the new baghouse on its housekeeping checklist, to be reviewed and implemented daily.
- iii. Where any pollution control device is not functioning properly, Scoular shall cease any operations that are affected by the malfunctioning device until the pollution controls are fixed.

- iv. Scoular shall keep all floors swept and cleaned from boot pit to cupola floor.
- v. Scoular shall maintain and operate dust control devices at the dump pit.
- vi. Housekeeping checklist shall be completed by the manager and maintained on the premises for inspection by EPA or IEPA personnel for five years. The housekeeping checklist shall include lines requiring:
  - a. weekly inspection of the internal transferring area and grain cleaning in accordance with Conditions 4.c.i and 4.c.ii of Permit #12090040;
  - b. daily inspection of the new baghouse, once it is installed, to ensure that it is functioning properly in accordance with Illinois SIP at Rule 203(d)(9)(A)(i) [35 Ill. Admin. Code § 212.461(a)(1)];
  - c. daily recording of the pressure reading on the new baghouse, once it is installed; and
  - d. weekly inspections of the sleeves on the loadouts while loadout is occurring in accordance with Condition 4.d.ii of Permit #12090040.
- vii. In order to control dust from the parking areas and driveways that do not have blacktop or asphalt grindings, the accessible parts of such areas shall be treated using water, calcium chloride, or magnesium chloride as often as needed to prevent dust. Scoular shall maintain and keep in good repair the parking and driveway areas that are paved.
- viii. Perform 6-minute visible emission readings, while trucks are driving on the driveway, following EPA's Method 22, and reading emissions at the point on the gravel driveway where trucks are driving each day at approximately the same time in the morning during working days. If trucks are not driving on the driveway at such

time, perform the readings at a time later that day. If visible emissions are observed, treatment, such as water, calcium chloride, or magnesium chloride, must be used on the driveways. Record these readings in a spreadsheet and maintain them at the Facility for three years for inspection by IEPA or EPA. If the Facility is not operating that day, note that in the spreadsheet. If the Facility paves the parking areas and driveways, the Respondent no longer needs to take the readings or keep the spreadsheet.

- ix. Prepare a spreadsheet and record the times, dates, and types of treatment (such as water, calcium chloride, or magnesium chloride) used to prevent dust from the parking areas and driveways at the Facility. If treatment was not used because the Facility was not operating, the Facility personnel did not believe it was necessary based on visible emissions readings, or because of weather conditions, that should be noted in the spreadsheet.

38. By no later than 210 days from the date of this Order, Scoular must implement the following items:

- i. Install induced draft on the Major Dump Pit at the Facility. The induced draft shall include, at a minimum, a 26.2 horsepower exhaust fan that uses multiple aspiration points to duct particulate matter emissions to, at a minimum, a 9,788 standard cubic feet per minute (scfm) dump pit baghouse. The baghouse must have a 98% particulate matter removal efficiency;
- ii. A grate shall be installed over the 9.167 feet by 14.42 feet dump pit opening. The grate will have 32 cross members with 31 openings of 0.0833 foot width and 14.42

foot length. This will provide a total effective grate opening of 37.24 square feet and a face velocity of at least 260 feet per minute at the grate;

iii. The enclosure over the dump pit shall consist of a metal building with a bi-fold door on one end; and

iv. Install and maintain sleeves or the equivalent on all truck loadouts at the Facility.

The sleeves or the equivalent must extend six inches into the trucks when they are being loaded in accordance with paragraph 6.e.i. of operating permit #76010310. The sleeves shall be repaired promptly when they are broken or torn.

39. If either the IEPA or Will County have not approved the necessary construction, operating, or building permits within sufficient time to build and operate the air pollution control equipment required in Paragraph 38, Scoular must inform EPA and, if warranted, EPA will grant an extension of time to complete construction or begin operation.

40. Scoular shall submit copies of the testing results of all of the testing required in Paragraph 6 of Permit #12090040 to EPA within 60 days of testing and verify that the pollution controls required by Paragraph 38 have 98% particulate removal efficiency (98% by weight).

41. Scoular shall install pressure gauges and/or other monitoring equipment to evaluate the performance of the air pollution controls required by this Order.

42. By signing this order, Scoular certifies that all of the conveyors (including transfer points), distributors, and cleaning and separating operations at the Facility are enclosed and there are no emission points to the atmosphere from the conveyors (including transfer points), distributors, and cleaning and separating operations. After any leakage or breakage of

the conveyors, Scoular shall immediately sweep and clean the conveyor area to remove grains in accordance with housekeeping requirements. Scoular shall also repair the conveyors promptly.

43. If any other dump pit at the Facility attains or exceeds an annual grain throughput of more than 300,000 bushels of grain in a year, or receives more than 40% of the annual grain throughput of the grain-handling operation, such dump pit will be considered a Major Dump Pit per the Illinois SIP at Part 211 [35 Ill. Admin. Code § 211.3570] and will be required to follow Illinois SIP at Rule 203(d)(9)(B) [35 Ill. Admin. Code § 212.462].

44. Any future modifications or additions at the Facility should follow the requirements in the Illinois SIP at Rule 203(d)(9)(A) [35 Ill. Admin. Code § 212.461(b)] and Rule 203(d)(9)(B) [35 Ill. Admin. Code § 212.462].

45. Scoular must begin operating the pollution controls required in Paragraph 38 no later than 211 days after this order is signed.

#### **Periodic Reporting**

46. After the effective date of this Order, and for one year thereafter, Scoular must submit electronic quarterly reports to EPA by the 15<sup>th</sup> day of March, June, September, and December that shall include periodic updates as to the:

- i. status of the application for a construction permit for the pollution control requirements for the dump pits set forth in paragraph 36; and
- ii. status of construction of the baghouse, the baghouse efficiency requirement, and other requirements for the dump pits set forth in paragraph 38.

47. Scoular must submit all requested information under an authorized signature with the following certification:

I certify under penalty of law that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to section 113(c)(2) of the Clean Air Act, and 18 U.S.C. §§ 1001 and 1341.

48. Scoular must send all electronic reports required by this Order to wilson.jennifera@epa.gov and r5airenforcement@epa.gov.

#### **General Provisions**

49. This Order does not affect Scoular's responsibility to comply with other federal, state and local laws.

50. This Order does not restrict EPA's authority to enforce the Illinois SIP or any other section of the CAA.

51. Nothing in this Order limits the EPA's authority to seek appropriate relief, including penalties, under Section 113 of the CAA, 42 U.S.C. § 7413, for Scoular's violation of the Illinois SIP.

52. For purposes of this Order and enforcement of this Order, Scoular waives any right to judicial or administrative review of this Order and any jurisdictional defenses to EPA's enforcement of it. Scoular neither admits nor denies the Findings listed above and agrees to be bound by the terms of this Order.

53. Failure to comply with this Order may subject Scoular to penalties of up to \$37,500 per day for each violation under Section 113 of the CAA, 42 U.S.C. § 7413, and 40 C.F.R. Part 19.

54. The terms of this Order are binding on Scoular, its assignees and successors. Scoular must give notice of this Order to any successors in interest prior to transferring ownership and must simultaneously verify to EPA, at the above address, that it has given the notice.

55. Scoular may assert a claim of business confidentiality under 40 C.F.R. Part 2, Subpart B, for any portion of the information it submits to EPA. Information subject to a business confidentiality claim is available to the public only to the extent allowed by 40 C.F.R. Part 2, Subpart B. If Scoular fails to assert a business confidentiality claim, EPA may make all submitted information available, without further notice, to any member of the public who requests it. Emission data provided under Section 114 of the CAA, 42 U.S.C. § 7414, is not entitled to confidential treatment under 40 C.F.R. Part 2, Subpart B. "Emission data" is defined at 40 C.F.R. § 2.301.

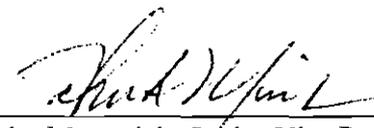
56. This Order is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.*, because it seeks collection of information by an agency from specific individuals or entities as part of an administrative action or investigation. To aid in our electronic recordkeeping efforts, please furnish an electronic copy on CD or thumb drive. If not possible, provide your response to this Order without staples; paper clips and binder clips, however, are acceptable.

57. EPA may use any information submitted under this Order in an administrative, civil judicial or criminal action.

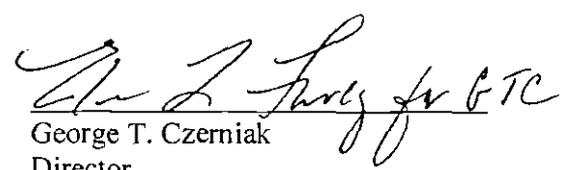
58. Scoular agrees to the terms of this Order.

59. This Order is effective on the date of signature by the Director of the Air and Radiation Division.

1-31-2017  
Date

  
John Messerich, Senior Vice President  
The Scoular Company

3/19/14  
Date

  
George T. Czerniak  
Director  
Air and Radiation Division

**CERTIFICATE OF MAILING**

I, Loretta Shaffer, certify that I sent a final version of the Administrative Consent Order, EPA Order No. EPA-5-14-113(a)-IL-11, by certified mail, return receipt requested, to:

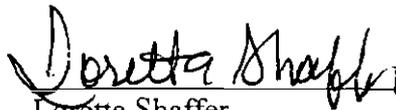
Karen Bedore  
The Scoular Company  
250 Marquette Avenue  
Suite 1050  
Minneapolis, MN 55401

I also certify that I sent a copy of the Administrative Consent Order, EPA Order No. 5-14-113(a)-IL-11 by first-class mail to:

Claire A. Manning, Partner  
Brown, Hay & Stephens, LLP  
205 South Fifth Street, Suite 700  
P.O. Box 2459  
Springfield, IL 62705-2459

Ray Pilapil, Manager  
Bureau of Air  
Compliance and Enforcement Section  
Illinois EPA  
1021 North Grand Avenue East  
Springfield, Illinois 62702

On the 21 day of March 2014.



Loretta Shaffer  
Administrative Program Assistant  
AECAB, IL/IN

CERTIFIED MAIL RECEIPT NUMBER:

7009 1680 0000 7676 1673