

IN THE IOWA DISTRICT COURT FOR LEE COUNTY

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LAW NO. CVEQ 5288 (5)
DISTRICT COURT
LEE COUNTY, IOWA
CLERK

STATE OF IOWA, ex rel., IOWA)
DEPARTMENT OF NATURAL)
RESOURCES (99AG23542),)
)
Plaintiff,)
)
vs.)
)
ROQUETTE AMERICA, INC., a)
Delaware Corporation,)
)
Defendant.)

PETITION AT LAW

COMES NOW Plaintiff State of Iowa, ex rel., Iowa Department of Natural Resources (IDNR) and for its claims against Defendant Roquette America, Inc. (Roquette) states as follows:

Introduction

1. The IDNR seeks the assessment of civil penalties and injunctive relief against Roquette for air pollution control violations committed at or in relation to Roquette's corn wet milling facility located in Keokuk, Lee County, Iowa.
2. Roquette failed to comply with Prevention of Significant Deterioration (PSD) requirements including but not limited to failure to implement the best available control technology for certain pollution emitting equipment.
3. Roquette emitted pollutants, including particulate matter (PM), particulate matter with an aerodynamic diameter less than or equal to 10 micrometers (PM₁₀), nitrogen oxides (NO_x), sulfur dioxide (SO₂), volatile organic compounds (VOCs), and carbon monoxide (CO), in excess of

permitted limits; failed to timely conduct stack tests to determine compliance with construction permit emission limits; and failed to timely submit stack test reports.

Parties

4. The State of Iowa is a sovereign state of the United States of America.
5. The IDNR is a duly constituted agency of the State of Iowa pursuant to Iowa Code section 455A.2.
6. Roquette America, Inc. is a Delaware corporation authorized to do business in the State of Iowa.

Jurisdiction

Air Pollution Control

7. The IDNR is the state agency with the duty to prevent, abate, or control air pollution. Iowa Code § 455B.132. The specific administrative and enforcement duties of the IDNR director relating to air pollution control are contained, in part, in Iowa Code sections 455B.134(1)-(13).
8. The IDNR director is authorized to grant construction or operation permits for new, modified, or existing air contaminant sources and for related control equipment. Iowa Code § 455B.134(3).
9. No air contaminant source shall be installed, altered so that it significantly affects emissions, or placed in use unless a construction or conditional permit has been issued for the source. Iowa Code § 455B.134(3)(a); 567 Iowa Admin. Code 22.1(1).
10. The Iowa Environmental Protection Commission (EPC) is authorized to adopt rules for the abatement, control, and prevention of air pollution. Iowa Code § 455B.133(2). The rules may include those that are necessary to obtain approval of the state implementation plan (SIP) under

section 110 [42 U.S.C. § 7410] of the federal Clean Air Act. *Id.* Air pollution control rules are contained in 567 Iowa Admin. Code chapters 20-29 and 31-35.

11. A permit may be issued subject to conditions which shall be specified in writing including but not limited to emission limits, operating conditions, fuel specifications, compliance testing, continuous monitoring, and excess emission reporting. 567 Iowa Admin. Code 22.3(3).

12. If any order, permit or rule of the IDNR is being violated, the Attorney General shall, at the request of the IDNR director, institute a civil action in any district court for injunctive relief to prevent any further violation of the order, permit, or rule, or for the assessment of a civil penalty as determined by the court, not to exceed Ten Thousand Dollars (\$10,000.00) per day for each day such violation continues, or both such injunctive relief and civil penalty. Iowa Code § 455B.146.

General Definitions

13. "Air contaminant" means "dust, fume, mist, smoke, other particulate matter, gas, vapor (except water vapor), odorous substance, radioactive substance, or any combination thereof." Iowa Code § 455B.131(1).

14. "Air contaminant source" means "any and all sources of emission of air contaminants whether privately or publicly owned or operated." Iowa Code § 455B.131(2).

15. "Air pollution" means "presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as is or may reasonably tend to be injurious to human, plant, or animal life, or to property, or which unreasonably interferes with the enjoyment of life and property." Iowa Code § 455B.131(3).

16. "Emission" means "release of one or more air contaminants into the outside atmosphere." Iowa Code § 455B.131(6).

Prevention of Significant Deterioration (PSD) Definitions

17. "Actual emissions" means the "actual rate of emissions of a regulated NSR pollutant from an emissions unit." 567 Iowa Admin. Code 33.3(1); 40 C.F.R. § 52.21(b)(21)(i).

18. "Best available control technology" or "BACT" means "an emissions limitation, including a visible emission standard, based on the maximum degree of reduction for each regulated NSR pollutant which would be emitted from any proposed major stationary source or major modification" which the IDNR "on a case-by case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques. . . ." 567 Iowa Admin. Code 33.3(1); 40 C.F.R. § 52.21(b)(12).

19. "Major modification" means "any physical change in or change in the method of operation of a major stationary source that would result in a significant emissions increase of a regulated NSR pollutant and a significant net emissions increase of that pollutant from the major stationary source." 567 Iowa Admin. Code 33.3(1); 40 C.F.R. § 52.21(b)(2)(i).

20. "Major stationary source" means any of several designated "stationary sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any regulated NSR pollutant" or "any stationary source which emits, or has the potential to emit, 250 tons per year or more of a regulated NSR pollutant." 567 Iowa 33.3(1); 40 C.F.R. §§ 52.21(b)(1)(i)(a) and (b).

21. "Net emissions increase" means with respect to any regulated NSR pollutant emitted by a major stationary source, the amount by which the increase in emissions from a particular physical change or change in the method of operation at a stationary source plus any other increases and decreases in actual emissions at the major stationary source that are contemporaneous with the

particular change and are otherwise creditable, exceed zero. 567 Iowa Admin. Code 33.3(1); 40 C.F.R. §§ 52.21(b)(3)(i)(a) and (b).

22. "Regulated NSR pollutant" means *inter alia* "[a]ny pollutant for which a national ambient air quality standard has been promulgated and any constituents or precursors for such pollutants identified by the [EPA] Administrator." 567 Iowa Admin. Code 33.3(1).

23. "Significant" means "in reference to a net emissions increase or the potential of a source to emit," a rate emissions that would equal or exceed *inter alia* 100 tons per year (tpy) of carbon monoxide (CO), 40 tpy of nitrogen oxides (NO_x), 40 tpy of sulfur dioxide (SO₂), 25 tpy of particulate matter (PM), 15 tpy of particulate matter with an aerodynamic diameter less than or equal to 10 micrometers (PM₁₀). 567 Iowa Admin. Code 33.3(1); 40 C.F.R. § 52.21(b)(23)(i).

24. "Significant emissions increase" means "for a regulated NSR pollutant, an increase in emissions that is significant for that pollutant." 567 Iowa Admin. Code 33.3(1); 40 C.F.R. § 52.21(b)(40).

25. "Stationary source" means "any building, structure, facility, or installation which emits or may emit a regulated NSR pollutant." 567 Iowa Admin. Code 33.3(1); 40 C.F.R. § 52.21(b)(5).

Prevention of Significant Deterioration (PSD) Requirements

26. The federal Clean Air Act requires the EPA to establish National Ambient Air Quality Standards (NAAQS). 42 U.S.C. § 7409(a)(1). Primary and secondary NAAQS are prescribed to protect the public health and welfare, respectively. 42 U.S.C. §§ 7409(b)(1) and (2); 40 C.F.R. § 50.2(b). Primary and secondary NAAQS have been adopted for six pollutants: sulfur oxides (sulfur dioxide) (SO₂), particulate matter with an aerodynamic diameter less than or equal to 10 micrometers (PM₁₀) or less than or equal to 2.5 micrometers (PM_{2.5}), carbon monoxide (CO),

ozone (O₃), nitrogen dioxide (NO₂), and lead (Pb). 40 C.F.R. §§ 50.4 - 50.13. All areas of the State of Iowa have been designated as being in attainment or unclassifiable for each primary and secondary NAAQS. 40 C.F.R. § 81.316.

27. For areas which are designated in attainment with NAAQS or unclassifiable, the federal Clean Air Act includes a program to prevent significant deterioration (PSD) of air quality. 42 U.S.C. §§ 7470-79. Preconstruction requirements are imposed on any major emitting facility to prevent significant deterioration of the air quality. 42 U.S.C. § 7475.

28. For purposes of the PSD program, "construction" also includes "modification," as defined in 42 U.S.C. section 7411(a), of any source or facility. 42 U.S.C. § 7479(2)(C). "Modification" means "any physical change in, or change in the method of operation of, a stationary source which increases the amount of any air pollutant emitted by such source or which results in the emission of any air pollutant not previously emitted." 42 U.S.C. § 7411(a)(4).

29. EPA rules implementing the PSD program are contained, in part, in 40 C.F.R. section 52.21. The EPA has approved the State of Iowa's program to implement PSD permit requirements. 52 Fed.Reg. 23981 (1987).

30. Prior to November 1, 2006, IDNR rule 567 Iowa Admin. Code 22.4 adopted the federal PSD regulations contained in 40 C.F.R. section 52.21, as amended through March 12, 1996, except for section 52.21(a) (plan disapproval), section 52.21(q) (public participation), section 52.21(s) (environmental impact statement), and section 52.21(u) (delegation of authority).

31. On November 1, 2006, IDNR rule 567 Iowa Admin. Code 22.4 was amended to reference the rules for prevention of significant deterioration contained in the simultaneously adopted 567 Iowa Admin. Code chapter 33. IAB Vol. XXIX No. 7 (9/27/06), p. 451, ARC 5388B.

The purpose of chapter 33 is to implement the federal Clean Air Act New Source Review Program under 40 C.F.R. sections 51.166 and 52.21 (PSD requirements).

32. Special construction permit requirements for major stationary sources in areas designated attainment or unclassified, i.e., PSD requirements, are contained in 567 Iowa Admin. Code 33.3. The requirements of the subrules 33.3(10) through 33.3(18) apply to the construction of any new major stationary source or the major modification of any existing major stationary source. 567 Iowa Admin. Code 33.3(2)"a".

33. No new major stationary source or major modification shall begin construction without a permit that states that the major stationary source or major modification will meet those requirements. 567 Iowa Admin. Code 33.3(2)"b".

34. A major modification shall apply best available control technology (BACT) for each pollutant subject to regulation under the Clean Air Act for which it would result in a significant net emissions increase at the source. 567 Iowa Admin. Code 33.3(10); 40 C.F.R. 52.21(j)(3).

35. The owner or operator of a proposed source or modification shall demonstrate that allowable emission increases from the proposed source or modification, in conjunction with all other applicable emissions increases or reductions, would not cause or contribute to air pollution in violation of any NAAQS or any maximum allowable increase over the baseline concentration in any area. 567 Iowa Admin. Code 33.3(11); 40 C.F.R. 52.21(k).

36. The owner or operator of a proposed source or modification shall submit all information necessary to perform any analysis or make any determination required by PSD review. 567 Iowa Admin. Code 33.3(14); 40 C.F.R. 52.21(n).

37. Any owner or operator who constructs or operates a source or modification not in accordance with the application pursuant to the provisions in rule 567 Iowa Admin. Code 33.3 or with the terms of any approval to construct, or any owner or operator of a source or modification subject to the provisions in rule 567 Iowa Admin. Code 33.3 who commences construction after April 15, 1987 (the effective date of Iowa's PSD program), without applying for and receiving department approval, shall be subject to appropriate enforcement action. 567 Iowa Admin. Code 33.3(18)"c".

Facts

Roquette Corn Wet Milling Facility

38. Roquette owns and operates a corn wet milling facility located at 1003 South 5th Street, Keokuk, Iowa.

39. Roquette manufactures at its corn wet milling facility a variety of corn starches, starch derivatives, and other products of the corn wet milling process.

40. The Roquette corn wet milling facility includes numerous pieces of equipment which emit or have the potential to emit air pollutants. There are at least 182 emission units with 144 emission points at the facility.

41. Roquette's emission units emit a variety of air pollutants including but not limited to PM, PM₁₀, SO₂, NO_x, VOCs and CO, each of which is a "regulated NSR pollutant" as defined in 567 Iowa Admin. Code 33.3(1) and 40 C.F.R. section 52.21(b)(50).

42. The Roquette corn wet milling facility is a "major stationary source" as defined in Iowa Code section 455B.131(8), 567 Iowa Admin. Code 33.3(1), and 40 C.F.R. sections 52.21(b)(1)(i)(a) and (b).

43. The Roquette corn wet milling facility at Keokuk, Iowa, is located within an area designated as either in attainment with primary and secondary NAAQS or unclassified. 40 C.F.R. § 81.316.

44. On November 21, 2005, a Consent Order, Judgment and Decree was entered in *State of Iowa, ex rel., Iowa Department of Natural Resources v. Roquette America, Inc.*, Lee County Law No. EQEQ4303, assessing a \$560,000 civil penalty for Roquette's failure to comply with PSD requirements for Boilers 9, 10, and 12; enjoining further violations; requiring Roquette to submit a PSD permit application for a new boiler; and requiring the shutdown of Boilers 9, 10, and 12 on or before January 31, 2008.

Emission Points 59-3 and 59-4 (Cyclones)

45. Emission Units FH-5A, FH-5B, FH-11A, FH-11B, FH-12A, FH-12B, FH-22A, and FH-22B consist of four natural gas dryers used for drying corn gluten feed. Prior to 1998, the air pollutant emissions generated by these dryers were routed to former EP 59-7. Former EP 59-7 was a scrubber designed to reduce certain pollution emissions.

46. In 1998, Roquette modified these emission units by removing the scrubber, former EP 59-7, and rerouting the dryer emissions to EP 59-3 and EP 59-4. EP 59-3 and EP 59-4 are cyclones, equipment designed to remove some larger particulate matter (PM). Prior to making the modifications, on November 12, 1997, Roquette requested that the IDNR accept the modifications as exemptions to permitting requirements because the modifications would result in a decrease in pollution emissions. Based upon Roquette's representations, the exemption request was approved by IDNR on April 22, 1998.

47. On November 13, 2002, Roquette submitted an application for an amendment to the existing permits for these emission units so that they would reflect the 1998 modifications.

48. On August 10, 2004, the IDNR issued Air Quality Construction Permit No. 75-A-095-S1 to Roquette for EP 59-4, and Air Quality Construction Permit No. 75-A-096-S1 to Roquette for EP 59-3.

49. Condition 10 of the permits established emission limits for PM, PM₁₀, Opacity, SO_x, NO_x, VOC, and CO. The emission limits for PM, PM₁₀, SO_x, NO_x, VOCs, and CO were established to insure that the project was a "synthetic minor," i.e., emission limits to insure that the project was below the regulatory threshold for PSD requirements.

50. Condition 12 of the permits required Roquette to verify compliance with the emission limits no later than 180 days after the initial startup date of the proposed equipment by sampling the emission point while the equipment is operated at the maximum capacity as rated by the manufacturer.

51. Condition 8(B) of the permits required Roquette to submit a written compliance demonstration report for each compliance testing event (stack test report) to IDNR, postmarked not later than forty-five (45) days after the completion of the test period.

52. Because the changes authorized by the permits were actually completed before issuance of the amended permit, the due date for the required stack testing was 180 days after permit issuance on August 10, 2004, or February 10, 2005.

53. On April 10, 2006, the IDNR issued a Notice of Violation to Roquette for failing to conduct stack testing for PM, PM₁₀, SO_x, NO_x, VOCs, and CO for EP 59-3 and EP 59-4.

54. Roquette did not conduct the required stack testing until June 14-15, 2006. The stack test results were required to be submitted to the IDNR by July 31, 2006. Roquette did not comply.

55. On August 7, 2006, the IDNR issued to Roquette a Notice of Violation for failure to submit the stack test results. Roquette did not submit the stack test results to IDNR until August 16, 2006.

56. The results of the stack testing on June 14-15, 2006, showed that Roquette failed to comply with the emission limits for 9 of the required 14 tests for EP 59-3 and EP 59-4:

Emission Point	Pollutant	Permitted Emission Limit (lbs/hr)	Stack Test Result (lbs/hr)
EP 59-3	PM	8.83	18.54
	PM ₁₀	6.49	18.54
	NO _x	3.88	6.87
	VOC	10.35	17.12
	CO	42.53	42.67
EP 59-4	PM	8.83	11.22
	PM ₁₀	6.49	11.22
	NO _x	3.97	4.23
	VOC	10.35	16.27

57. On August 17, 2006, the IDNR issued to Roquette a Notice of Violation for failure to verify compliance with 9 of the 14 emission limits

58. The stack test results also demonstrated that Roquette's project had actually resulted in significant increases in emissions, thereby, triggering the need to comply with PSD requirements for major modifications.

59. On August 23, 2006, the IDNR issued to Roquette a Notice of Violation for failure to apply for PSD permits for the modifications of EP 59-3 and EP 59-4. The Notice required Roquette to submit a netting analysis (showing that the emissions increase was not significant because of contemporaneous emission decreases over the contemporaneous five-year period preceding the modifications) or a PSD permit application. Roquette did neither.

60. On September 21, 2006, Roquette conducted additional stack testing on EP 59-3 and EP 59-4.

61. On November 13, 2006, the IDNR issued to Roquette a Notice of Violation for failure to submit the stack test results. The stack test report was due on November 5, 2006. Roquette did not submit the test results until November 17, 2006.

62. The results of the stack testing on September 21, 2006, showed that Roquette failed to comply with the emission limits for 11 of the required 14 tests for EP 59-3 and EP 59-4:

Emission Point	Pollutant	Permitted Emission Limit (lbs/hr)	Stack Test Result (lbs/hr)
EP 59-3	PM	8.83	18.9
	PM ₁₀	6.49	18.9
	NO _x	3.88	6.2
	SO _x	13.61	19.0
	VOC	10.35	14.7
	CO	42.53	44.62
EP 59-4	PM	8.83	16.33

	PM ₁₀	6.49	16.33
	NO _x	3.97	4.1
	SO _x	13.61	14.3
	VOC	10.35	13.0

63. On November 21, 2006, the IDNR issued to Roquette a Notice of Violation for failing to verify compliance with 11 of the 14 emission limits.

64. On January 3-4, 2007, Roquette conducted additional stack testing on EP 59-3 and EP 59-4. The stack test results were submitted to IDNR on February 19, 2007.

65. The results of the stack testing on January 3-4, 2007, showed that Roquette failed to comply with the emission limits for 8 of the required 14 tests for EP 59-3 and EP 59-4:

Emission Point	Pollutant	Permitted Emission Limit (lbs/hr)	Stack Test Result (lbs/hr)
EP 59-3	PM	8.83	14.62
	PM ₁₀	6.49	14.62
	NO _x	3.88	4.96
	CO	42.53	52.49
EP 59-4	PM	8.83	12.54
	PM ₁₀	6.49	12.54
	NO _x	3.97	4.99
	CO	42.53	44.72

66. On March 6, 2007, the IDNR issued to Roquette a Notice of Violation for failing to verify compliance with 8 of the 14 emission limits.

67. On June 12, 2007, Roquette conducted additional stack testing on EP 59-3 and EP 59-4. The stack test results were submitted to the IDNR on July 20, 2007.

68. The results of the stack testing on June 12, 2007, showed that Roquette failed to comply with the emission limits for 5 of the required 14 tests for EP 59-3 and EP 59-4:

Emission Point	Pollutant	Permitted Emission Limit (lbs/hr)	Stack Test Result (lbs/hr)
EP 59-3	PM	8.83	14.37
	PM ₁₀	6.49	14.37
	NO _x	3.88	4.49
EP 59-4	PM	8.83	12.19
	PM ₁₀	6.49	12.19

69. On August 13, 2007, the IDNR issued to Roquette a Notice of Violation for failing to demonstrate compliance with 5 of the 14 emission limits.

70. On August 7-8, 2007, Roquette conducted additional stack testing on EP 59-3 and EP 59-4. The stack test results were submitted to the IDNR on September 21, 2007.

71. The results of the stack testing on August 7-8, 2007, showed that Roquette failed to comply with the emission limits for 6 of the required 14 tests for EP 59-3 and EP 59-4:

Emission Point	Pollutant	Permitted Emission Limit (lbs/hr)	Stack Test Result (lbs/hr)
EP 59-3	PM	8.83	19.37
	PM ₁₀	6.49	19.37

	NO _x	3.88	8.35
EP 59-4	PM	8.83	15.62
	PM ₁₀	6.49	15.33
	NO _x	3.97	4.78

72. On October 4, 2007, the IDNR issued to Roquette a Notice of Violation for failing to demonstrate compliance with 6 of the 14 emission limits.

73. On April 3-4, 2008, Roquette conducted additional stack testing on EP 59-3 and EP 59-4. The stack test results were submitted to the IDNR on April 30, 2008.

74. The results of the stack testing on April 3-4, 2008, showed that Roquette failed to comply with the emission limits for 8 of the required 14 tests for EP 59-3 and EP 59-4:

Emission Point	Pollutant	Permitted Emission Limit (lbs/hr)	Stack Test Result (lbs/hr)
EP 59-3	PM	8.83	13.64
	PM ₁₀	6.49	13.64
	NO _x	3.88	4.52
EP 59-4	PM ₁₀	6.49	8.79
	NO _x	3.97	4.27
	SO ₂	13.61	14.73
	VOC	10.35	10.61
	CO	42.53	49.21

75. On May 19, 2008, the IDNR issued to Roquette a Notice of Violation for failing to verify compliance with 8 of the 14 emission limits.

76. On June 10, 2008, the IDNR Director issued Administrative Consent Order No. 2008-AQ-14 which established *inter alia* a compliance schedule for submittal of PSD permit applications for EP 59-3 and EP 59-4.

77. Administrative Consent Order No. 2008-AQ-14 required Roquette to *inter alia* submit draft PSD permit applications for EP 59-3 and EP 59-4 within 45 days of signing the order, then to participate in a review meeting with the IDNR within 21 days following submission of the draft permit application and ultimately to submit a final application within 45 days. Roquette satisfied each of these timelines and submitted the application on September 26, 2008.

78. Roquette's draft PSD permit applications for EP 59-3 and EP 59-4 indicated the following net emissions increases, thereby triggering PSD program requirements:

Pollutant	Net Emissions Increase	PSD Significant Emission Rate (tpy)	PSD Triggered?
CO	383.28	100	Yes
PM ₁₀	92.82	15	Yes
PM*	92.82+	25	Yes

*Roquette's permit application did not expressly refer to PM emissions, but these would necessarily equal or exceed PM₁₀ emissions, which are by definition a subset of PM.

EP 19-1 Packager

79. On March 13, 2002, the IDNR issued Air Quality Construction Permit No. 02-A-158 to Roquette authorizing construction of a new packaging system.

80. Condition 10 of the permit established emission limits for PM, PM₁₀, and Opacity. The emission limits for PM and PM₁₀ were established to insure that the project was a "synthetic minor,"

i.e. emission limits to insure that the project was below the regulatory threshold for PSD requirements.

81. Condition 12 of the permit required Roquette to verify compliance with the emission limits for PM and opacity no later than 180 days after the initial startup date of the proposed equipment by sampling the emission point while the equipment is operated at the maximum capacity as rated by the manufacturer.

82. Condition 8(B) required Roquette to submit a written compliance demonstration report for each compliance testing event (stack test report) to IDNR, postmarked not later than forty-five (45) days after the completion of the test period.

83. Condition 3 required that Roquette complete the project within thirty-six (36) months of issuance of the construction permit, i.e., March 13, 2005. The stack testing would at the latest be required to be submitted by September 9, 2005.

84. On April 10, 2006, the IDNR issued to Roquette a Notice of Violation for failing to conduct stack testing for PM and opacity for EP 19-1.

85. On September 20, 2006, Roquette conducted stack testing of EP 19-1. The stack test results were not submitted to the IDNR until December 11, 2006. The results showed that Roquette failed to comply with the PM emission limit.

Emission Point	Pollutant	Permitted Emission Limit (lbs/hr)	Stack Test Result (lbs/hr)
EP 19-1	PM	0.34	0.36

86. On November 21, 2006, the IDNR issued a Notice of Violation to Roquette for failing to verify compliance with the PM emission limit of 0.34 lbs/hr.

COUNT I

Prevention of Significant Deterioration (PSD) Violations

87. Roquette's construction and installation of EP 59-3 and EP 59-4 constituted a "major modification" as defined in 567 Iowa Admin. Code 33.3(1) and 40 C.F.R. section 52.21(b)(2)(i), subject to PSD requirements.

88. Roquette conducted this major modification without applying for and obtaining a PSD permit in violation of 567 Iowa Admin. Code 22.1(1), 22.4, 33.3(2)"b"; and complying with the requirements of 567 Iowa Admin. Code 33.3(10)-(18).

89. Roquette has failed to apply the best available control technology (BACT) to control emissions from EP 59-3 and EP 59-4, in violation of 567 Iowa Admin. Code 22.4 and 33.3(10).

WHEREFORE Plaintiff, State of Iowa, ex rel., Iowa Department of Natural Resources, requests that the Court:

a. assess a civil penalty against Defendant Roquette America, Inc. pursuant to Iowa Code section 455B.146 for each day of violation of 567 Iowa Admin. Code 22.1, 22.4, 33.3(2)"b," and 33.3(10)-(18), not to exceed Ten Thousand Dollars (\$10,000.00) for each day of each such violation; and

b. permanently enjoin Defendant Roquette America, Inc. from further violations of 567 Iowa Admin. Code 22.1(1), 22.4, 33.3(2)"b," and 33.3(10)-(18).

Plaintiff further requests that the Court tax the costs of this action to the defendant and provide such other relief as the Court may deem just and proper.

COUNT II

Construction Permit Violations

90. Roquette has repeatedly exceeded its PM, PM₁₀, SO₂, NO_x, VOCs and CO emission limitations for EP 59-3 and EP 59-4 in violation of Condition 10 of Air Quality Construction Permit Nos. 75-A-095-S1 and 75-A-096-S1.

91. Roquette has failed to timely conduct stack testing and submit stack testing results for EP 59-3 and EP 59-4 in violation of Conditions 8(B) and 12 of Air Quality Construction Permit Nos. 75-A-095-S1 and 75-A-096-S1.

92. Roquette has repeatedly exceeded its PM emission limitations for EP 19-1 in violation of Condition 10 of Air Quality Construction Permit No. 02-A-158.

93. Roquette has failed to timely conduct stack testing and submit stack testing results for EP 19-1 in violation of Conditions 8(B) and 12 of Air Quality Construction Permit No. 02-A-158.

WHEREFORE Plaintiff, State of Iowa, ex rel., Iowa Department of Natural Resources, requests that the Court:

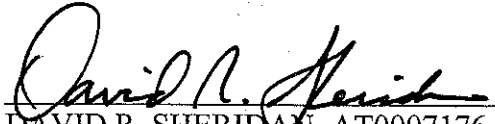
a. assess a civil penalty against Defendant Roquette America, Inc. pursuant to Iowa Code section 455B.146 for each day of violation of Construction Permit Nos. 75-A-095-S1, 75-A-096-S1, and 02-A-158, not to exceed Ten Thousand Dollars (\$10,000.00) for each day of each such violation; and

b. permanently enjoin Defendant Roquette America, Inc. from further violations of Construction Permit Nos. 75-A-095-S1, 75-A-096-S1, and 02-A-158.

Plaintiff further requests that the Court tax the costs of this action to the defendant and provide such other relief as the Court may deem just and proper.

Respectfully submitted,

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