

April 25, 2022

**ATTORNEY GENERAL RAOUL AND WINNEBAGO COUNTY STATE'S ATTORNEY HANLEY ANNOUNCE
ORDER IN CHEMICAL FACTORY FIRE LAWSUIT**

***Agreed Interim and Preliminary Injunction Order Will Ensure Cleanup Efforts Comply With
Environmental Laws***

Chicago — Attorney General Kwame Raoul and Winnebago County State's Attorney J. Hanley today announced an agreed interim and preliminary injunction order in their lawsuit against Chemtool, Inc. (Chemtool). The order entered by the Winnebago County Circuit Court lays the framework for the cleanup from a massive fire and explosions that occurred at the manufacturing facility in Rockton, Illinois in June 2021.

[The court-enforceable order](#) contains several provisions that seek to require Chemtool to safely manage remaining contaminants, as well as bring the site into compliance with Illinois' environmental laws and regulations.

"The order will ensure the cleanup process occurs in accordance with the law and holds Chemtool responsible for investigating the full extent of the environmental damage that has been caused," Raoul said. "Given the volume of hazardous materials involved in the fire and the amount of debris, it is vital that cleanup and remediation is done in accordance with environmental laws for the health and safety of all Rockton-area residents."

Raoul's order addresses the most immediate environmental and health concerns by requiring Chemtool to present and gain approval of a plan to address, identify, store and properly dispose of all remaining chemical products. The order also requires weekly documentation of how waste materials generated by the fire are removed, as well as how daily inspections of the site are conducted. Chemtool must also prepare a schedule for demolition and decontamination of the site and a plan for the investigation of all on- and off-site impacts of the fire, including those to groundwater and private drinking water wells.

Under the order, Chemtool must reimburse Illinois Environmental Protection Agency, Illinois Emergency Management Agency, and Winnebago County for their costs in responding to the six-alarm fire, which burned for several days, caused explosions and resulted in evacuations of area residents.

"As the cleanup and investigation of this fire continue, it is paramount that Chemtool is held responsible for the damage that has been caused," Hanley said. "I continue to be grateful for the work of the Illinois EPA and Attorney General Raoul to ensure this process continues to prioritize the protection of area residents and our environment."

"These Orders will serve as a detailed roadmap for the long road to recovery for the community of Rockton following the massive explosion that occurred more than ten months ago," Illinois EPA Director John J. Kim said. "The events of June 14, 2021 have had a lasting impact on area residents and officials and required hundreds of staff-hours for emergency responders and environmental officials. Our staff continues to monitor clean-up efforts at the site and we believe these orders are an important step to bringing closure to this devastating incident."

On the morning of June 14, a fire broke out and engulfed Chemtool's Rockton facility, causing several explosions and thick black smoke that could be observed many miles away from the facility. Health and safety concerns prompted evacuations of businesses and residents within a 1-mile radius of the facility, and residents within three miles of the facility were told to wear masks when outside. Several fire departments

in Illinois and Wisconsin responded to the fire, which burned for several days before the evacuation order was lifted on June 18.

[According to Raoul and Hanley's lawsuit](#), filed on July 9, 2021, the fire released ash, debris and other contaminants into the air, which landed on buildings, in residents' yards and throughout the area. Raoul and Hanley allege that firefighting foam used to suppress the fire was found in the Rock River after a pump failure, and that the debris, ash and runoff from the fire and firefighting efforts are waste that was not properly disposed of, which poses environmental hazards. The lawsuit also includes allegations of air and water pollution, creating a water pollution hazard and unauthorized waste disposal. Raoul and Hanley allege that Chemtool is liable for damages and for the costs the state and Winnebago County have incurred in responding to the incident.

Chemtool's Rockton plant manufactures grease, lubricating oil and fluids, and more than 4 million gallons of crude oil were stored at the facility. The facility is located near residences and the Rock River. Raoul and Hanley allege that the large volume of petroleum product stored in containers that have been compromised by the fire pose a significant threat to land and the Rock River.

Senior Assistant Attorney General Ellen O'Laughlin and Assistant Attorney General Kevin Garstka are handling the case for Raoul's Environmental Bureau. Civil Bureau Chief Lafakeria Vaughn is handling the case for the Winnebago County State's Attorney's office.

**IN THE CIRCUIT COURT FOR THE SEVENTEENTH JUDICIAL CIRCUIT
WINNEBAGO COUNTY, ILLINOIS
CHANCERY DIVISION**

ELECTRONICALLY FILED
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PEOPLE OF THE STATE OF ILLINOIS,)
ex rel. KWAME RAOUL, Attorney)
General of the State Illinois, and *ex rel.*)
J. HANLEY, State’s Attorney)
of Winnebago County, Illinois,)
)
Plaintiff,)
)
v.)
)
CHEMTOOL INCORPORATED,)
a Delaware corporation,)
)
Defendant.)

No. 2021-CH-115

AGREED IMMEDIATE AND PRELIMINARY INJUNCTION ORDER

This cause coming before this Court on Plaintiff’s, PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* KWAME RAOUL, Attorney General of the State of Illinois, and *ex rel.* J. HANLEY, State’s Attorney for Winnebago County, Illinois, Motion for Immediate and Preliminary Injunction, due notice having been given, the Court having jurisdiction over the parties and the subject matter herein, and the Court otherwise being duly advised in the premises;

NOW THEREFORE, the Plaintiff having alleged pursuant to Section 43(a) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/43(a) (2020), that a substantial danger to the environment or to the health and welfare of persons exists pursuant to the Act, 415 ILCS 5/1 *et seq.* (2020); and having also alleged that the Defendant, CHEMTOOL INCORPORATED, (“Chemtool”) has violated the Act and Illinois Pollution Control Board (“Board”) regulations and that a preliminary injunction should issue pursuant to Section 42(e) of the Act, 415 ILCS 5/42(e) (2020), to restrain the violations; and the parties having agreed to the entry of this Agreed

Immediate and Preliminary Injunction Order (“Agreed Order”), the Court enters the following immediate and preliminary injunction pursuant to Section 43(a) of the Act, 415 ILCS 5/43(a) (2020), and Section 42(e) of the Act, 415 ILCS 5/42(e) (2020), which shall remain in effect until further order of this Court.

I. BACKGROUND

1. The Plaintiff incorporates by reference herein the allegations in its Verified Complaint for Injunctive Relief and Civil Penalties filed on July 9, 2021 (“Complaint”).

2. The Plaintiff alleges in its Complaint that as the result of the fire and explosions (“Fire”) that began on June 14, 2021 at Defendant’s facility, located at 1165 Prairie Hill Road, Rockton, Winnebago County, Illinois (“Site”), the Defendant created a substantial danger to the environment and public health and violated the Act and Board regulations.

3. At all times relevant to the Complaint, Defendant was and is a Delaware corporation registered to do business in Illinois and is in good standing. Defendant owned and operated a grease, lubricating oil, and fluids manufacturing plant located at the Site.

4. The Fire resulted in the emission of smoke, particulate matter and potentially other unknown contaminants into the atmosphere, the release of vapor suppression foam to the Rock River, and the deposition of firefighting water runoff and foam runoff. The runoff from firefighting activities remains at the Site and must be handled so as to prevent any further releases into the environment.

5. An estimated 57,667 gallons of petroleum product remained on the Site following the Fire and were stored in fire compromised tanks prior to being removed for temporary storage in frac tanks to prevent a threat of discharge of petroleum product to the Rock River and any potential impacts to area groundwater.

6. Defendant asserts that it has taken the following actions, among others, in response to the Fire:

a. From the start of the fire on June 14 until it regained control of the Site from the Rockton Fire Department on June 19, Defendant engaged in the following activities:

i. Retained US Fire Pump to assist in fighting the fire and CTEH, Hepaco, Ouray, EHS Support, Clean Harbors, and Environmental Restoration to assist in evaluating and responding to potential environmental and health impacts;

ii. Constructed two trench systems surrounding the fire area to contain releases of fire water and foam;

iii. Established booms and sampling programs for the Rock River to capture potential releases into the river;

iv. Retained CTEH to institute and implement an air sampling program to evaluate air quality on-site and off-site;

v. Instituted and implemented a program to provide assistance to nearby residents regarding debris generated by the fire;

vi. On June 16, 2021, Defendant submitted to Illinois Environmental Protection Agency (“Illinois EPA”) a Particulate Deposition Sampling Plan to evaluate potential offsite deposition impacts as a result of the Fire and associated response activities, and a Water Sampling and Disposal Plan.

b. Since regaining control of the site, Defendant engaged in the following activities:

- i. Increased the scope of its water detention system by constructing berms, trenches and collection points to enable collection of fire water and rain water to prevent site runoff;
 - ii. Continued sampling activities to confirm if there were any releases to the Rock River;
 - iii. Collected and stored all material onsite to prevent release to the environment, storing the material in more than 60 frac tanks and 84 roll-off boxes;
 - iv. Removed nearly 57,667 gallons of product from product storage tanks and stored in frac tanks until disposal can be arranged;
 - v. Constructed a clay berm along the west side of the Site to contain and minimize potential for releases;
 - vi. Identified facilities at which to dispose collected firefighting water and have started to ship the wastewater off-Site to those facilities;
 - vii. Performed soil scraping and removal of visually impacted soils around the perimeter of the Site.
- c. Chemtool provided sample results including frac tank wastewater sample results collected on June 21, 2021 and August 10, 2021.

7. On June 17, 2021, Defendant established a hotline number for residents to schedule appointments for debris removal. In response to calls on this hotline, Defendant removed debris, ash and other materials from the property of residents who called the hotline. As of July 27, 2021, Defendant received approximately 848 calls.

8. Chemtool, without approval or review from the Plaintiff, obtained approval and authorization from Republic Services to transfer and dispose of wastewater that was stored on-

Site. On August 20, 2021, Defendant provided the Republic Services “Special Waste Department Decision” document to the Plaintiff. On August 30, 2021, Chemtool began removing wastewater contained in frac tanks from the Site for transfer and disposal with Republic Services.

9. Chemtool, without approval or review from the Plaintiff, also obtained approval and authorization from Clean Harbors, Inc. to transfer and dispose of wastewater that was stored on-Site. On October 7, 2021, Defendant provided the Clean Harbors waste approval document to the Plaintiff. As of the date of entry of this Agreed Order, Chemtool has not removed wastewater contained in frac tanks from the Site for transfer and disposal with Clean Harbors.

10. Defendant represents that wastewater contained in frac tanks on-Site is being taken to licensed disposal facilities, including but not limited to Republic Services, and Defendant has received all proper authorization from these facilities to transfer and dispose of Site wastewater in frac tanks.

11. Defendant’s Site is located within the Beloit Corp. Superfund site. A groundwater treatment system used to address chlorinated solvent contamination at the Beloit Corp. Superfund site is located on Defendant’s Site.

II. GENERAL PROVISIONS

1. This Agreed Order is not a final resolution of the merits of the Plaintiff’s Complaint, but rather addresses the Plaintiff’s most immediate concerns regarding the Fire alleged in the Complaint, and this Agreed Order and compliance therewith shall not be interpreted as addressing all alleged violations or response costs.

2. By entering into this Agreed Order and complying with its terms, the Defendant does not admit the factual allegations or allegations of violation within the Complaint and

referenced above, and this Agreed Order and compliance therewith shall not be interpreted as including such admission.

3. Where applicable, terms used in this Agreed Order shall have the meaning as defined in the Plaintiff's Complaint in this matter.

4. The Defendant shall not claim that any report or any exhibits or attachments thereto, or any portion thereof, submitted to the Plaintiff pursuant to this Agreed Order are subject to attorney-client privilege or constitute attorney work product.

5. This Agreed Order shall apply to and bind the parties hereto.

III. IMMEDIATE INJUNCTIVE RELIEF

1. Effective immediately upon the entry of this Agreed Order, the Defendant shall take all necessary actions to prevent the further discharge or release of wastewater, petroleum products, oils, chemicals, and other contaminants, as a result of the Fire, from the Site onto the land, air, sediment, surface water, and/or groundwater.

2. Within fourteen (14) days after the date of entry of this Agreed Order, the Defendant shall provide to the Plaintiff a plan, for its review and approval, that addresses how Defendant will identify, store and properly dispose of all chemical products remaining on the Site.

3. Effective immediately upon the entry of this Agreed Order, and reported every Wednesday as provided in Section IV.G below, Defendant shall, with respect to waste materials generated by the Fire, provide the following:

- a. The quantities of liquids and solids removed from the Site, listed in quantities removed per day, including total running amounts;
- b. Amounts of liquids and solids removed from product storage areas;

- c. Amounts of liquids and solids that have been collected from the ground;
 - d. Amounts of liquids and solids that have been collected from berms or trenches;
and
 - e. Collection method and disposition of the liquids and solids.
4. Effective immediately upon the entry of this Agreed Order, and reported every Wednesday as provided in Section IV.G below, Defendant shall provide a summary of on-Site activities, including but not limited to, i) daily visual inspections of remaining product storage areas, ii) the integrity of berms and trenches, and iii) visual inspection of portions of the Site outside of berms and trenches to ensure that no waste enters the ground or reaches, or is in imminent danger of reaching, the Rock River or any other surface water.
5. For Defendant's disposal of wastewater at any disposal facility **outside the State of Illinois**, the Defendant shall:
- a. At least seven (7) days prior to the disposal facility being utilized, submit to Plaintiff, for review, the following information (collectively, "Water Sampling and Disposal Information");
 - i. Sampling protocols (including sampling for Per- and Polyfluoroalkyl substances ("PFAS") for any wastewater stored on Site;
 - ii. Sample results for frac tanks containing wastewater stored on-Site that were not previously provided; and
 - iii. Disposal destination(s) for on-Site wastewater, including copies of disposal facility authorizations and any waste characterizations.
 - b. Provide to Plaintiff manifests for all disposal of wastewater where: i)

disposal has already occurred, but Defendant has not yet provided a manifest; and ii) any disposal occurring after the entry of this Agreed Order.

Defendant may provide Plaintiff such manifests and Water Sampling and Disposal Information by uploading the documents to an electronic data room that Plaintiff may access and download. The documents shall not contain a watermark or other information that was not present before the documents were uploaded to the data room. Defendant will maintain the documents in the electronic data room for at least ninety days.

6. Defendant shall not send any on-Site wastewater for disposal to any publicly owned treatment works (“POTW”) or other waste disposal facility **in the State of Illinois** without first submitting a Water Sampling and Disposal Plan for review and approval to Plaintiff. The Water Sampling and Disposal Plan shall include the following:

- a. A plan for representative sampling of all on-Site wastewater proposed for disposal at the Illinois facility(ies) in question;
- b. Disposal destination(s) for all on-Site wastewater in question, including copies of POTW or other disposal facility authorizations, if applicable, and any waste characterizations; and
- c. If the wastewater in question contains PFAS, Defendant shall also include: i) a detailed plan as to how such wastewater will be handled, ii) the PFAS sampling methods utilized, including detection limits utilized, and iii) results of the PFAS sampling.

For any work done pursuant to the approved Water Sampling and Disposal Plan, Defendant shall provide to Plaintiff all manifests for disposal of all wastewater stored on-Site within seven days

of receipt. Defendant may provide Plaintiff such manifests by uploading the manifests to an electronic data room that Plaintiff may access and download. The manifests shall not contain a watermark or other information that was not present before the manifests were uploaded to the data room. Defendant will maintain the manifests in the electronic data room for at least ninety days.

7. If Plaintiff has not approved of a disposal destination for the wastewater described in Section III.6 within sixty (60) days of Plaintiff's receipt of a Water Sampling and Disposal Plan, or if Plaintiff has denied the use of a disposal location, Defendant may invoke the Dispute Resolution provisions of this Agreed Order to request that the Court determine whether Defendant may dispose of its wastewater at Defendant's chosen disposal destination in accordance with Illinois law.

IV. PRELIMINARY INJUNCTIVE RELIEF

A. Summary Report

1. Within ninety days after the date of entry of this Agreed Order, the Defendant shall provide to the Plaintiff a written report identifying the contaminants released, including PFAS, with a detailed calculation of the amount of each contaminant discharged as a result of the Fire, and all assumptions made by the Defendant in performing such calculations and supporting documentation.

2. The Defendant shall provide clarifying information, if requested by the Plaintiff, according to a reasonable schedule established by the Plaintiff.

B. Root Cause Analysis

1. The Defendant has retained independent engineering consultant Baker Engineering and Risk Consultants, Inc. to perform an investigation to determine the root cause or causes of the Fire (“Root Cause Analysis”).

2. Defendant has submitted a copy of the Root Cause Analysis report to the Plaintiff.

3. The Defendant shall provide clarifying information related to the root cause or causes of the Fire, if requested by the Plaintiff, according to a reasonable schedule established by the Plaintiff.

C. Demolition

1. Within fourteen (14) days of the entry of this Agreed Order, the Defendant shall submit to the Plaintiff, for its review and comment, a demolition and decontamination schedule, which shall include a schedule of activities with anticipated completion dates.

2. If the Plaintiff provides comments on the demolition and decontamination schedule, the Defendant shall, within thirty (30) days after receiving such comments, provide a response to the Plaintiff addressing the Plaintiff’s comments. This process shall continue until the Plaintiff provides notice to the Defendant that it does not have any additional comments.

D. Site Investigation

1. Within thirty (30) days after the entry of this Agreed Order, the Defendant shall submit to the Plaintiff, for its review and approval, a plan for the investigation of all on- and off-Site impacts, including, as appropriate, soil, soil gas, sediment, surface water and groundwater, including private drinking water wells, in compliance with the “Tiered Approach to Corrective Action Objectives” (“TACO”) standards and methods set forth in 35 Ill. Adm. Code Part 742, that may have been impacted by the Fire (“Site Investigation Work Plan”). The Site Investigation

Work Plan shall include: i) a scope of work for the investigation, and ii) a schedule for completion of the investigation and submission of a Site Investigation Report to the Plaintiff.

2. Upon receipt of the Plaintiff's written approval of the Site Investigation Work Plan, with or without conditions, the Defendant shall implement the Site Investigation Work Plan in accordance with the approved schedule. Approval of a Site Investigation Work Plan does not guarantee additional investigation will not be required.

3. Within sixty (60) days after completion of all activities required in the Site Investigation Work Plan, the Defendant shall submit to the Plaintiff, for its review and approval, a report of the findings of the site investigation ("Site Investigation Report"). If all on- and off-Site soil, soil gas, sediment, surface water, and groundwater contamination caused by the Fire has not been identified and fully delineated in compliance with TACO, then Defendant shall repeat the submission and completion of additional Site Investigation Work Plans and Site Investigation Reports in accordance with paragraphs IV.C.2 through 4, according to a reasonable schedule set by Plaintiff, until all Fire-related contamination has been identified and fully delineated.

4. At least ten (10) days prior to any field work to be performed under the Site Investigation Work Plan, such as sampling or excavating, the Defendant shall provide notice to the Plaintiff, as identified in Section VI herein, of the date and time that such work is scheduled.

5. The Defendant shall notify each contractor to be retained to perform work required by this Agreed Order of the requirements of this Agreed Order relevant to the activities to be performed by that contractor, including all relevant work schedules and reporting deadlines, and shall provide a copy of this Agreed Order to each contractor already retained no later than ten (10) days after the date of entry of this Agreed Order.

E. Additional Compliance Obligations

1. Within fourteen (14) days after the entry of this Agreed Order, Defendant shall temporarily plug any connections from the Site to the Rockton sanitary and storm sewer systems to ensure that contaminants remain within the Site's current footprint, while not permanently eliminating any upstream property owner's access to those systems.

2. Within sixty (60) days of entry of this Agreed Order, Defendant shall install permanent, clay seals of all plugged storm water drains along the west side of the Site.

3. Upon completion of the demolition of the building structures located on-Site, if Illinois EPA determines that a permanent seal is necessary to protect the Rockton sanitary sewer system, Defendant shall install a permanent seal of the Chemtool sewer line at its junction to the main sanitary sewer within thirty (30) days of such determination.

4. Defendant may submit a written request for Plaintiff's review and approval that either or both of the Site's sanitary or storm sewers connections no longer pose a threat to the Rockton sanitary and storm sewer systems or the environment, and that Defendant be allowed to remove the temporary plug(s) or permanent plug(s) from the connections to the sanitary and/or storm sewers systems.

5. The demolition and removal of the burned building structures on Site shall comply with the requirements of the National Emission Standards for Hazardous Air Pollutants for Asbestos. Also, all site work shall be conducted under an acceptable fugitive particulate operating program that meets the requirements of 35 Ill. Admin. Code 212, Subpart K: Fugitive Particulate Matter, specifically 35 Ill. Admin. Code 212.309 and 212.310.

6. Notwithstanding any provision herein, this Agreed Order shall not impede, impact, or supplant any requirements for investigation and/or remediation relating to the Beloit Corp. Superfund Site, including but not limited to compliance with the restrictive covenant on the Site,

whether in relation to the Fire-related waste or otherwise. In the event of a conflict between the requirements of this Order and the Superfund requirements, the most restrictive requirement shall be followed.

F. Approval of Plans, Reports and Submittals

If the Plaintiff approves any plan or submittal, without conditions, other than plans submitted under Section IV.C, the Defendant shall implement the approved plan or other submittal pursuant to the approved schedule. If the Plaintiff disapproves of any plan, report or other submittal, including the Plan required by Section III.2, the Site Investigation Work Plan, the Site Investigation Report, or other submittal or any revisions required by this Agreed Order, other than plans submitted under Section IV.C, the Defendant shall, within seven (7) days after receiving written notice of such disapproval, submit a proposal that addresses the Plaintiff's conditions or reasons for disapproval. This process shall continue until the Plaintiff approves the document or either party invokes the Dispute Resolution provision in Section X of this Agreed Order as to that document.

G. Weekly Email Status Updates

Effective immediately upon entry of this Agreed Order, each week on each Wednesday, the Defendant shall provide to Plaintiff, via email, status updates indicating the status of work required under this Agreed Order, including reports identified in paragraphs III.3. The Defendant shall continue submitting such reports until further order of the Court or the parties agree in writing that the Defendant may discontinue the updates required by this paragraph or change the frequency of updates.

V. PLAINTIFF'S COSTS

1. The Defendant shall reimburse the Illinois EPA for all reasonable and necessary

past and future costs incurred by the Illinois EPA from the date of the Fire, including but not limited to costs related to: field response to the fire; sampling of ash, soil, groundwater, surface water and residential wells; sample analysis; site inspections and oversight; oversight of site investigation and remediation; and review and evaluation of documents and reports submitted to it pursuant to this Agreed Order (“Response Costs”). Response Costs shall include direct program costs, allocated program costs and indirect costs. Direct costs shall include, but are not limited to, all related payroll costs for all applicable organizational units, outside contractor/consultants fees, travel costs, and costs associated with photographs, maps, and laboratory services. Allocated program costs represent program costs that are related to the overall program operations, including but not limited to, fiscal services, bill preparation and clerical duties, Division of Legal Counsel program meetings and regulatory preparation and implementation, staff program meetings and management oversight. Indirect costs are those costs incurred by the Illinois EPA in day-to-day operations, including but not limited to, the operation and maintenance of buildings, utilities and administrative costs. The Illinois EPA reserves the right to seek any additional costs incurred by the Illinois EPA pursuant to Section 22.2(f) of the Act, 415 ILCS 5/22.2(f). The Illinois EPA's response and oversight costs shall not be considered as civil penalties, and nothing in this Agreed Order shall be construed to limit the Plaintiff from seeking civil penalties up to the maximum recoverable under Section 42 of the Act, 415 ILCS 5/42 (2020).

2. The Illinois EPA will submit to the Defendant(s) on a quarterly basis invoices for Response Costs incurred during the billing period with supporting documentation. The supporting documentation shall include, at a minimum: (1) hours billed by each biller per pay period; and (2) copies of invoices for all outside services and equipment. Within forty-five (45) days of the receipt of each invoice, the Defendant(s) shall pay (unless contested pursuant to the terms of this Agreed

Order) the Response Costs detailed therein by means of a check or checks made payable to the Illinois Environmental Protection Agency for deposit into the Fund indicated by the Illinois EPA invoice. The case name and case number shall appear on the face of the check. The Defendant shall send each check and a copy of the Illinois EPA invoice to:

Division of Administration Fiscal Services Section
Illinois EPA
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

If the Defendant does not receive an invoice in the time frame indicated above, this failure does not waive the Illinois EPA's right to submit an invoice or receive cost reimbursement for Response Costs. A copy of the check(s) and the transmittal letters shall be sent to:

Ellen F. O'Laughlin
Senior Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602

3. The Defendant shall reimburse Illinois EPA and its contractors for the cost of: (i) any repairs or replacements to the pump and treat system, groundwater monitoring well network, and any other equipment of the Superfund remedy that were damaged as a result of the Fire, and (ii) any other Fire-related impact that interferes with or affects the integrity, operation, or maintenance of the system. Illinois EPA will provide supporting documentation for such costs, and payment shall be made by the Defendant within forty-five (45) days of receipt of supporting documentation, by means of a check or checks made payable to the Illinois Environmental Protection Agency for deposit into the Fund indicated by the Illinois EPA. The Defendant shall send each check and a copy of the Illinois EPA's reimbursement request to:

Division of Administration Fiscal Services Section
Illinois EPA
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

4. Pursuant to Section 10 of the Oil Spill Responders Liability Act, 740 ILCS 113/10 (2020), the Defendant shall reimburse the Illinois Emergency Management Agency (“IEMA”) for all reasonable response, oversight and review costs that it may incur relating to the Fire. Payments for IEMA costs shall be made payable to Illinois Emergency Management Agency. IEMA will provide supporting documentation for such costs, and payment shall be made by the Defendant within 45 days of receipt. The Plaintiff reserves the right to pursue recovery of any other costs of investigation in pursuit of this matter.

5. The Defendant shall reimburse Winnebago County for all reasonable response and oversight costs it incurred as a result of the Fire (“Winnebago County Costs”). Payments for Winnebago County Costs shall be made payable to the County of Winnebago. Winnebago County will provide supporting documentation for such costs, and payment shall be made by the Defendant within 45 days of receipt. The Plaintiff reserves the right to pursue recovery of any other costs of investigation in pursuit of this matter.

VI. NOTICES

All submittals and correspondence relating to the requirements of this Agreed Order shall be directed to the following persons:

For the Plaintiff:

Ellen O’Laughlin
Kevin Garstka
Assistant Attorneys General
Illinois Attorney General’s Office
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69 W. Washington St., 18th Floor
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Todd Bennett
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For the Defendant:

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Karen L. Walter
Director, Regulatory Services
Chemtool Incorporated
c/o The Lubrizol Corporation
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Karen.walter@lubrizol.com
(By electronic mail)

VII. DUTY TO COOPERATE

The Plaintiff and the Defendant shall cooperate with each other in the implementation of this Agreed Order.

VIII. COMPLIANCE WITH OTHER LAWS AND REGULATIONS

This Agreed Order in no way affects the responsibilities of the Defendant to comply with any other federal, state or local laws or regulations, including but not limited to the Act, 415 ILCS 5/1 *et seq.* (2020), and the Board Regulations, 35 Ill. Adm. Code Part 101 *et seq.*

IX. STIPULATED PENALTIES

1. If the Defendant fails to complete any activity or fails to comply with any response or reporting requirement by the date specified in this Agreed Order, the Defendant shall provide notice to the Plaintiff of each failure to comply with this Agreed Order and shall pay stipulated penalties in the amount of \$400.00 per day per violation for up to the first fifteen (15) days of

violation, \$500.00 per day per violation for the next fifteen (15) days of violation, and \$1,000.00 per day per violation thereafter until such time that compliance is achieved. The Plaintiff may make a demand for stipulated penalties upon the Defendant for its noncompliance with this Agreed Order. However, failure by the Plaintiff to make this demand shall not relieve the Defendant of the obligation to pay stipulated penalties. All stipulated penalties shall be payable within thirty (30) calendar days of the date the Defendant knows or should have known of its noncompliance with any provision of this Agreed Order.

2. Pursuant to Section 42(g) of the Act, interest shall accrue on any penalty amount owed by the Defendant not paid within the time prescribed herein. Interest on unpaid penalties shall begin to accrue from the date such are due and continue to accrue to the date full payment is received. Where partial payment is made on any penalty amount that is due, such partial payment shall be first applied to any interest on unpaid penalties then owing.

3. The stipulated penalties shall be enforceable by the Plaintiff and shall be in addition to, and shall not preclude the use of, any other remedies or sanctions arising from the failure to comply with this Agreed Order.

4. All stipulated penalty and interest payments shall be made by certified check, cashier's check or money order payable to Illinois EPA for deposit into the Environmental Protection Trust Fund. Payments shall be sent by first class mail and delivered to:

Illinois Environmental Protection Agency
Fiscal Services
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

The case name and case number shall appear on the face of the certified check, cashier's check or money order. A copy of the certified check, cashier's check or money order and any transmittal letter shall be sent to:

Ellen F. O'Laughlin
Senior Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602

X. DISPUTE RESOLUTION

The parties shall use their best efforts to resolve any and all disputes or differences of opinion arising with regard to this Agreed Order, informally and in good faith, within seven (7) days of a party providing notice to the other party of such a dispute. If, however, a dispute arises concerning this Agreed Order that the parties are unable to resolve informally, any party to this Agreed Order may, by written motion, within fourteen (14) days of receiving written notice of the conclusion of the informal resolution efforts, request that an evidentiary hearing be held before the Circuit Court for the Seventeenth Judicial Circuit, Winnebago County, Illinois, to resolve the dispute between the parties.

XI. FORCE MAJEURE

1. The Defendant may declare *force majeure* in appropriate circumstances as follows:
 - a. A *force majeure* event is an event arising solely beyond the control of the Defendant, which prevents the timely performance of any of the requirements of this Agreed Order. For the purposes of this Agreed Order, *force majeure* shall include, but is not limited to, events such as floods, tornadoes, other natural

disasters, labor disputes beyond the reasonable control of the Defendant, or prohibitions imposed by any court having jurisdiction over the Defendant.

b. When, in the opinion of the Defendant, a *force majeure* event occurs which causes or may cause a delay in the performance of any of the requirements of this Agreed Order, the Defendant shall orally notify the Illinois EPA (Thomas A. Rivera, Office Phone: 847-294-4079; Cell Phone: 847-370-1284) within forty-eight (48) hours of the occurrence. Written notice shall be given to the Plaintiff as soon as practicable, but no later than ten (10) business days after the claimed occurrence.

c. Failure by the Defendant to comply with the notice requirements of the preceding paragraph shall render this *force majeure* provision voidable by the Plaintiff as to the specific event for which the Defendant has failed to comply with the notice requirement. If voided, this section shall be of no effect as to the particular event involved.

d. An increase in costs associated with implementing any requirement of this Agreed Order shall not, by itself, excuse the Defendant under the provisions of this Agreed Order from a failure to comply with such a requirement.

XII. RIGHT OF ENTRY

In addition to any other authority, the Illinois EPA, its employees and representatives, the Attorney General, his employees and representatives, and the Winnebago County State's Attorney, his employees and representatives, shall have the right of entry into and upon the Site which is the subject of this Agreed Order, at all reasonable times for the purpose of conducting inspections and evaluating compliance status. In conducting such inspections, the Illinois EPA, its employees and

representatives, and the Attorney General, his employees and representatives, may take photographs, samples, and collect information, as they deem necessary.

XIII. EXTENSIONS AND MODIFICATIONS

The parties may, by mutual consent, extend any compliance dates or modify the terms of this Agreed Order without leave of court. Any such agreed modification shall be in writing, signed by authorized representatives of each party and incorporated into this Agreed Order by reference. Any request for modification shall be made by the Defendant in writing and shall be independent of any other submittal made pursuant to this Agreed Order. Moreover, notice of a request for any proposed modification shall be provided to the Plaintiff's representatives listed in Section VI of this Agreed Order.

XIV. RESERVATION OF RIGHTS

Nothing contained herein shall be deemed an admission of any wrongful conduct or violation of any applicable statute, law or regulations thereunder by the Defendant, nor a finding of fact or adjudication by this Court of any of the facts or claims contained in the Complaint. Plaintiff reserves the right to seek additional technical relief and civil penalties in this matter. Defendant reserves all rights not explicitly waived or impaired in this Agreed Order. Nothing in this Agreed Order shall affect the rights and defenses of Plaintiff or Defendant under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601 *et seq.* ("CERCLA"), the August 30, 2013 Agreement and Certification of Successor in Interest or Assign (the "Assignment"), or the "Giuffre Agreement," as it is referred to in the Assignment. Plaintiff and Defendant reserve all rights and defenses under CERCLA, the Assignment, and the Giuffre Agreement.

XV. RETENTION OF JURISDICTION

This Court shall retain jurisdiction of this matter and shall consider any motion by the Plaintiff or the Defendant for the purposes of interpreting and enforcing the terms and conditions of this Agreed Order.

XVI. BINDING ON SUCCESSORS, ASSIGNS AND FUTURE OWNERS/OPERATORS

This Agreed Order shall be binding upon the Defendant, its successors, assigns and future owners and/or operators of the Site.

XVII. SIGNATURE

This Agreed Order may be signed in counterparts, all of which shall be considered one agreement.

XVIII. STATUS CONFERENCE WITH THE COURT

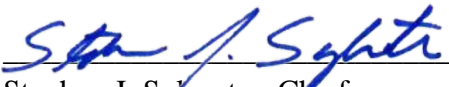
This matter is set for status conference on July 21, 2022 at 9:00 a.m. without further notice.

WHEREFORE the parties, by their representatives, enter into this Agreed Immediate and Preliminary Injunction Order and submit it to the Court that it may be approved and entered.

AGREED:

PEOPLE OF THE STATE OF ILLINOIS
ex rel. KWAME RAOUL, Attorney General
of the State of Illinois,

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

By: 
Stephen J. Sylvester, Chief
Assistant Attorney General
Environmental Bureau

Date: 4/19/22

ex rel. J. HANLEY, State's Attorney
of Winnebago County,

By: _____
Lafakeria S. Vaughn
Chief of the Civil Bureau
Assistant State's Attorney

Date: _____

CHEMTOOL INCORPORATED

By: _____
Karen L. Walter
Director, Regulatory Services
Chemtool Incorporated
c/o The Lubrizol Corporation

Date: _____

ENTERED:

Judge Lisa R. Fabiano

Date: _____

WHEREFORE the parties, by their representatives, enter into this Agreed Immediate and Preliminary Injunction Order and submit it to the Court that it may be approved and entered.

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PEOPLE OF THE STATE OF ILLINOIS
ex rel. KWAME RAOUL, Attorney General
of the State of Illinois,

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

By: _____
Stephen J. Sylvester, Chief
Assistant Attorney General
Environmental Bureau

Date: _____

ex rel. J. HANLEY, State's Attorney
of Winnebago County,

By: Lafakeria S. Vaughn
Lafakeria S. Vaughn
Chief of the Civil Bureau
Assistant State's Attorney

Date: 4/13/2022

CHEMTOOL INCORPORATED

By: _____
Karen L. Walter
Director, Regulatory Services
Chemtool Incorporated
c/o The Lubrizol Corporation

Date: _____

ENTERED:

Judge Lisa R. Fabiano

Date: _____

WHEREFORE the parties, by their representatives, enter into this Agreed Immediate and Preliminary Injunction Order and submit it to the Court that it may be approved and entered.

AGREED:

PEOPLE OF THE STATE OF ILLINOIS
ex rel. KWAME RAOUL, Attorney General
of the State of Illinois,

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


By: _____
Stephen J. Sylvester, Chief
Assistant Attorney General
Environmental Bureau

Date: _____

ex rel. J. HANLEY, State's Attorney
of Winnebago County,

By: _____
Lafakeria S. Vaughn
Chief of the Civil Bureau
Assistant State's Attorney

Date: _____

CHEMTOOL INCORPORATED
By: 
Karen L. Walter
Director, Regulatory Services
Chemtool Incorporated
c/o The Lubrizol Corporation

Date: 4/18/2022

ENTERED: 

Judge Lisa R. Fabiano
4/25/2022

Date: _____

July 9, 2021

**ATTORNEY GENERAL RAOUL AND WINNEBAGO COUNTY STATE'S ATTORNEY HANLEY FILE
LAWSUIT OVER CHEMICAL FACTORY FIRE**

Chicago — Attorney General Kwame Raoul and Winnebago County State's Attorney J. Hanley today filed a lawsuit against Chemtool Inc. (Chemtool) over a massive June 14 fire at its facility in Rockton, Illinois. The six-alarm fire burned for several days, caused explosions and prompted evacuations. Raoul and Hanley allege that the fire and efforts to control the fire resulted in smoke, particulate matter and unknown quantities of other contaminants being released into the environment.

Raoul and Hanley's [lawsuit](#) was filed in Winnebago County Circuit Court and alleges that Chemtool's actions pose a substantial danger to the public's health and welfare and the environment. The lawsuit also includes allegations of air and water pollution, creating a water pollution hazard, and unauthorized waste disposal. Raoul and Hanley allege that Chemtool is liable for damages and for the costs the state and Winnebago County have incurred in responding to the incident.

Chemtool's Rockton plant manufactures grease, lubricating oil and fluids, and more than 4 million gallons of crude oil were stored at the facility. Currently, the facility still houses four storage tanks holding approximately 100,000 gallons of petroleum product. The facility is located near residences and the Rock River. Raoul and Hanley allege that the large volume of petroleum product stored in containers that have been compromised by the fire pose a significant threat to land and the Rock River.

"The Chemtool fire rattled the community, displaced residents, and took the combined resources and efforts of several fire departments to get under control. Although the flames have been extinguished, the hazard posed to the public and the environment continues, and Chemtool owes the community more information," Raoul said. "My office, in collaboration with the Winnebago County State's Attorney's office will ensure that Chemtool is held responsible for evaluating the extent of the contamination and thoroughly remediating the damage."

"I am grateful for the thorough and swift investigation by the Illinois EPA and Attorney General Kwame Raoul," Hanley said. "I look forward to working with the Attorney General to protect Winnebago County's environment and the health of its citizens."

Raoul's lawsuit is based on referrals from the Illinois Environmental Protection Agency and the Illinois Emergency Management Agency.

"The catastrophic fire at the Chemtool facility resulted in significant impacts on local residents and the surrounding community," said Illinois EPA Director John Kim. "The action taken today by the Attorney General's office is an important step to ensure that the company is held responsible for the effects of the fire, which include conducting a thorough investigation and proper remediation."

"The Illinois Emergency Management Agency is dedicated to helping the residents of our state prepare for and respond to all natural, manmade or technological disasters, hazards or acts of terrorism," said IEMA Director Alicia Tate-Nadeau. "Responding to an incident of this nature puts our first responders at great risk and assumes a financial cost. This lawsuit seeks to reimburse the state for costs incurred from this disaster."

On the morning of June 14, a fire broke out and engulfed Chemtool's Rockton facility, causing several explosions and thick black smoke that could be observed many miles away from the facility. Health and safety concerns prompted evacuations of businesses and residents within a 1-mile radius of the facility, and

residents within three miles of the facility were told to wear masks when outside. Several fire departments in Illinois and Wisconsin responded to the fire, which burned for several days before the evacuation order was lifted on June 18.

According to Raoul and Hanley's lawsuit, the fire released ash, debris and other contaminants into the air, which landed on buildings, in residents' yards, and throughout the area. In addition, Raoul and Hanley allege that firefighting foam used to suppress the fire was found in the Rock River after a pump failure. Raoul and Hanley allege that the debris, ash and runoff from the fire and firefighting efforts are waste that was not properly disposed of, which poses environmental hazards.

Raoul and Hanley's lawsuit seeks to require Chemtool to assess the extent of the contamination, and take immediate corrective actions to address the release of pollutants to air, water and land. The lawsuit also seeks to compel Chemtool to take preventative actions to avoid the future release of pollutants, and pay civil penalties.

Assistant Attorneys General Kevin Garstka and Ellen O'Laughlin are handling the case for Raoul's Environmental Bureau. Civil Bureau Chief Lafakeria Vaughn is handling the case for the Winnebago County State's Attorney's office.

**IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT
WINNEBAGO COUNTY, ILLINOIS
CHANCERY DIVISION**

PEOPLE OF THE STATE OF ILLINOIS,)
ex rel. KWAME RAOUL, Attorney)
General of the State Illinois, and *ex rel.*)
J. HANLEY, State’s Attorney)
of Winnebago County, Illinois,)
)
Plaintiff,) No. 2021-CH-0000115
)
v.)
)
CHEMTOOL, INCORPORATED,)
a Delaware corporation,)
)
Defendant.)

VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF AND CIVIL PENALTIES

Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* KWAME RAOUL, Attorney General of the State of Illinois, on his own motion and at the request of the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (“Illinois EPA”) and the ILLINOIS EMERGENCY MANAGEMENT AGENCY (“IEMA”), and *ex rel.* J. HANLEY, States Attorney of Winnebago County, Illinois, on his own motion, complains of Defendant, CHEMTOOL, INCORPORATED, a Delaware corporation (“Defendant”), as follows:

**COUNT I
SUBSTANTIAL DANGER TO THE ENVIRONMENT,
PUBLIC HEALTH AND WELFARE**

1. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* KWAME RAOUL, Attorney General of the State of Illinois, on his own motion and at the request of the Illinois EPA, and *ex rel.* J. HANLEY, States Attorney of Winnebago County, Illinois, on his own motion, against Defendant pursuant to the terms and provisions of Section

43(a) of the Illinois Environmental Protection Act (the “Act”), 415 ILCS 5/43(a) (2020), and is an action to restrain a substantial danger to public health and welfare and to the environment.

2. The Illinois EPA is an administrative agency of the State of Illinois created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2020), and charged, *inter alia*, with the duty of enforcing the Act.

3. IEMA is an administrative agency of the State of Illinois created pursuant to the Illinois Emergency Management Agency Act, 20 ILCS 3305/, and charged with the duty of coordinating the overall emergency management program of the State and with private organizations, political subdivisions, and the federal government. IEMA also is responsible for implementation of Title III of the Superfund Amendments and Reauthorization Act of 1986.

4. At all times relevant to this Complaint, Defendant was and is a Delaware corporation registered to do business in Illinois and is in good standing.

5. Defendant owns and operates a grease, lubricating oil, and fluids manufacturing plant located at 1165 Prairie Hill Road, Rockton, Winnebago County, Illinois (“Facility” or “Site”).

6. The Facility is located approximately 700 feet from the Rock River, and is located near and adjacent to residential areas.

7. Numerous emission units exist at the Site. The Facility housed several tanks of various greases, oils, additives, and other fluids. In excess of four million gallons of crude oil were stored at the Facility.

8. The Facility was built on a Superfund site where pump and treat activities are still taking place to treat contaminants in the groundwater.

9. On June 14, 2021, at approximately 7:00 a.m., a fire broke out at the Facility (“Fire”).

10. The Fire resulted in thick, heavy black smoke that could be observed fifty-six miles away from the Facility. A plume of smoke from the fire extended for several miles downwind of the Facility.

11. The Rockton Fire Department, Rockford Fire Department, and numerous other Fire Departments from Illinois and Wisconsin responded to the large, six-alarm Fire at the Facility. The Facility quickly became fully-engulfed in the Fire and had several explosions.

12. As of the date of filing of this Verified Complaint, there are approximately four storage tanks at the Facility with an estimated 100,000 gallons of petroleum product. Given the large volume of petroleum product in containers with compromised integrity due to the Fire, there is a substantial threat of discharge of oil to land and a navigable waterway, the Rock River.

13. Due to concerns for health impacts due to the Fire, the Rockton, Illinois Fire Department issued an evacuation order for all businesses and residences within a one-mile radius of the Facility. A shelter was opened for evacuees at a local area school. Residents within three miles of the Facility were told to wear masks when outside. The evacuation order began June 14, 2021, and was lifted on June 18, 2021.

14. The Fire burned for several days, and by June 17, 2021, the Fire was reduced. However, additional flare-ups continued to occur through June 19, 2021, which at times again caused heavy haze and smoke at the Facility. A number of hot spots remained at the Site through at least June 19, 2021.

15. From June 14, 2021, and continuing to approximately June 24, 2021, the United States Environmental Protection Agency (“U.S. EPA”) conducted stationary and roaming air monitoring near the Facility and in nearby neighborhoods.

16. On June 15, 2021, Defendant initially used fluorinated firefighting foam to combat the Fire that may contain Perfluorooctanoic acid (PFOA), and the foam can also break down into Perfluorohexanoic acid (PFHxA) and potentially other Per- and Polyfluoroalkyl Substances (PFAS) analytes. After approximately three hours, Defendant switched to a non-fluorinated firefighting foam.

17. Fire suppression water and firefighting foam flowed out of the Facility structures onto the surrounding land. Defendant built interceptor trenches on the southern and western sides of the property to contain runoff of foam and other material from firefighting efforts at the Facility. Vacuum trucks were deployed to remove fire suppression water and foam runoff from trenches and at the Site.

18. As of the date of filing of this Verified Complaint, frac tanks and trucks are being used to store liquids from the Site and Fire. The contents of the tanks must be characterized for disposal before being disposed in accordance with state and federal regulations.

19. From approximately June 17, 2021 through July 2, 2021, absorbent booms, which are used to stop and prevent any spill from traveling further, were deployed by the Illinois EPA and/or Defendant to further protect the Rock River.

20. The Illinois EPA conducted water quality testing of the Rock River following the Fire. Illinois EPA also conducted testing of the groundwater wells that provide drinking water to the Rockton community water supply, as well as Rockton’s elevated water storage tower.

21. On June 17, 2021, a release of non-PFAS containing foam occurred due to backpressure in one of the fire hoses after the pump was turned off, but a valve was open. Foam traveled to the Rock River where firefighting foam was visible on the Rock River. Booms were deployed to contain the foam on the Rock River and a vacuum truck removed foam from the surface of the water.

22. Debris, ash and other material potentially resulting from the Fire fell onto buildings, residences, yards and grounds in the vicinity of the Fire.

23. After the Fire, Illinois EPA took a variety of samples including ash, wipe, runoff, drinking water, and river samples around the Site and in the immediate area.

24. The Fire resulted in the emission of particulate matter, smoke and potentially other unknown contaminants into the atmosphere.

25. As of the date of filing of this Verified Complaint, a complete engineering analysis of the events leading to the Fire has not been performed and the root cause of the Fire has not been conclusively determined.

26. As of the date of filing of this Verified Complaint, Defendant has not provided Plaintiff the amount of material released into the air, the amount of material released onto the ground, nor the amount of material released to groundwater or the Rock River as a result of the Fire and/or firefighting activities.

27. As of the date of filing of this Verified Complaint, product remains in unstable tanks and the land at the Site is heavily contaminated with runoff from firefighting efforts.

28. Section 43(a) of the Act, 415 ILCS 5/43(a) (2020), provides in pertinent part as follows:

- (a) In circumstances of substantial danger to the environment or to the public health of persons or to the welfare of persons where such

danger is to the livelihood of such persons, the State's Attorney or Attorney General, upon request of the Agency or on his own motion, may institute a civil action for an immediate injunction to halt any discharge or other activity causing or contributing to the danger or to require such other action as may be necessary. The court may issue an ex parte order and shall schedule a hearing on the matter not later than 3 working days from the date of injunction.

29. While the Fire burned, smoke, particulate matter, and potentially other unknown contaminants were released into the air, and the fire suppression water and foam runoff deposited on the ground continue to pose a public health hazard and threaten to impact the Rock River and groundwater.

30. The large volume of petroleum product in containers with compromised integrity and the land at the Site being heavily contaminated with firefighting runoff pose a substantial threat of discharge of oil and other contaminants to a navigable waterway, the Rock River, and pose a public health hazard and threaten to impact the Rock River and area groundwater.

31. By releasing smoke, particulate matter and potentially other unknown contaminants into the environment, by causing firefighting foam to be discharged to the Rock River, by depositing firefighting water runoff and foam runoff onto the ground, and by allowing the continued storage of petroleum product in an unsafe manner at the Facility, Defendant created and is continuing to allow circumstances of substantial danger to the environment and to public health and welfare.

32. The substantial danger alleged herein will continue or reoccur unless and until this Court grants equitable relief in the form of immediate, preliminary and, after trial, permanent injunctive relief.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Court grant an immediate and preliminary injunction in favor of Plaintiff, and against Defendant, CHEMTOOL, INCORPORATED:

1. Finding that Defendant created and is maintaining a substantial danger to the environment and public health and welfare;

2. Enjoining Defendant from creating any further substantial endangerment pursuant to Section 43(a) of the Act, 415 ILCS 5/43(a) (2020);

3. Ordering Defendant to immediately take all necessary actions to contain and prevent the discharge or release of firefighting water, wastewater runoff, petroleum product and any other contaminants as a result of the Fire and to undertake all necessary corrective action that will result in a final and permanent abatement;

4. Ordering Defendant, pursuant to 415 ILCS 5/42(f) (2020), to pay all costs, including oversight, sampling and clean-up costs, and attorney, expert witness and consultant fees expended by the Plaintiff in its pursuit of this action; and

5. Granting such other relief as this Court deems appropriate and just.

COUNT II
AIR POLLUTION

1. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, *ex. rel.* KWAME RAOUL, Attorney General of the State of Illinois, on his own motion and at the request of the Illinois EPA, and *ex. rel.* J. HANLEY, State's Attorney of Winnebago County, Illinois, on his own motion, pursuant to Section 42(d) and (e) of the Act, 415 ILCS 5/42 (d) and (e) (2020).

2-27. Plaintiff realleges and incorporates by reference herein paragraphs 2 through 27 of Count I as paragraphs 2 through 27 of this Count II.

28. Section 9(a) of the Act, 415 ILCS 5/9(a) (2020), provides as follows:

No person shall:

- (a) Cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act.

29. Section 201.141 of the Illinois Pollution Control Board (“Board”) Air Pollution Regulations, 35 Ill. Adm. Code 201.141, provides as follows:

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

30. Section 3.165 of the Act, 415 ILCS 5/3.615 (2020), provides the following definition:

“Contaminant” is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

31. The smoke, particulate matter, and potentially other unknown materials discharged and emitted into the air from the Facility as a result of the Fire are each a “contaminant” as that term is defined by Section 3.165 of the Act, 415 ILCS 5/3.615 (2020).

32. Section 3.315 of the Act, 415 ILCS 5/3.315 (2020), provides the following definition:

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

33. Defendant, a corporation, is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2020).

34. Section 3.115 of the Act, 415 ILCS 5/3.115 (2020), provides the following definition:

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

35. The release of smoke, particulate matter and the potential release of other unknown contaminants into the air at the Facility from June 14, 2021, at approximately 7:00 a.m., through at least June 19, 2021, where they created a risk of injury to human, plant, and/or animal life, to health, damaged property and threatened to unreasonably interfere with the enjoyment of life or property, constitutes “air pollution” as that term is defined in Section 3.115 of the Act, 415 ILCS 5/3.115 (2020).

36. By causing or threatening the release of airborne contaminants in the form of smoke, particulate matter and potentially other unknown contaminants from the Facility on June 14, 2021, and continuing through at least June 19, 2021, Defendant caused, threatened, or allowed air pollution in Illinois, and thereby violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2020), and Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141.

37. Violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary and, after a trial, permanent injunctive relief.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter a preliminary and, after a trial, permanent injunction and an order in favor of Plaintiff and against Defendant, CHEMTOOL, INCORPORATED:

1. Finding that Defendant has violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2020), and Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141;

2. Enjoining Defendant from any further violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2020), and Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141;

3. Ordering Defendant to undertake all necessary corrective action that will result in a final and permanent abatement of the violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2020), and Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141;

4. Assessing against Defendant, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2020), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of the Act and pertinent regulations, and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Ordering Defendant, pursuant to 415 ILCS 5/42(f) (2020), to pay all costs, including oversight, sampling and clean-up costs, and attorney, expert witness and consultant fees expended by the Plaintiff in its pursuit of this action; and

6. Granting such other relief as this Court deems appropriate and just.

COUNT III
WATER POLLUTION

1. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* KWAME RAOUL, Attorney General of the State of Illinois, on his own motion, and *ex rel.* J. HANLEY, State's Attorney of Winnebago County, Illinois, on his own motion, pursuant to Section 42(d) and (e) of the Act, 415 ILCS 5/42(d) and (e) (2020).

2-27. Plaintiff realleges and incorporates by reference herein paragraphs 2 through 27 of Count I as paragraphs 2 through 27 of this Count III.

28-30. Plaintiff realleges and incorporates by reference herein paragraphs 30, 32 and 33 of Count II as paragraphs 28 through 30 of this Count III.

31. Section 12(a) of the Act, 415 ILCS 5/12(a) (2020), provides as follows:

No person shall:

- (a) Cause or threaten or allow the discharge of any contaminants into the environment in any State so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources, or so as to violate regulations or standards adopted by the Pollution Control Board under this Act.

32. The firefighting foam is a “contaminant” as that term is defined by Section 3.165 of the Act, 415 ILCS 5/3.165 (2020).

33. Section 3.550 of the Act, 415 ILCS 5/3.555 (2020), provides the following definition:

“Waters” means all accumulations of water, surface and underground, natural, and artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon the State.

34. The Rock River is a “waters” of the State of Illinois as that term is defined by Section 3.550 of the Act, 415 ILCS 5/3.555 (2020).

35. Section 3.545 of the Act, 415 ILCS 5/3.545 (2020), provides the following definition:

“Water pollution” is such alteration of the physical, thermal, chemical, biological or radioactive properties of any waters of the State, or such discharge of any contaminant into any waters of the State, as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare, or domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

36. Defendant’s release of firefighting foam into the Rock River altered the physical and chemical properties of the Rock River and rendered these waters harmful or detrimental or injurious to public health, safety or welfare, and created a nuisance. Defendant’s releases thereby caused or tended to cause “water pollution” as defined by Section 3.545 of the Act, 415 ILCS 5/3.545 (2020).

37. By causing or allowing the discharge of firefighting foam into waters of the State of Illinois, Defendant caused, threatened, and allowed the discharge of contaminants into the environment so as to cause or tend to cause water pollution in Illinois, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

38. Violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary and, after a trial, permanent injunctive relief.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter a preliminary and, after a trial, permanent injunction and an order in favor of Plaintiff and against Defendant, CHEMTOOL, INCORPORATED:

1. Finding that Defendant has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020);
2. Enjoining Defendant from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2020);
3. Ordering Defendant to undertake all necessary corrective action that will result in a final and permanent abatement of the violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2020);
4. Assessing against Defendant, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2020), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of the Act, and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Ordering Defendant, pursuant to 415 ILCS 5/42(f) (2020), to pay all costs, including oversight, sampling and clean-up costs, and attorney, expert witness and consultant fees expended by the Plaintiff in its pursuit of this action; and

6. Granting such other relief as this Court deems appropriate and just.

COUNT IV
CREATING A WATER POLLUTION HAZARD

1-35. Plaintiff realleges and incorporates by reference herein paragraphs 2 through 27 of Count I, paragraphs 30, 32 and 33 of Count II, and paragraphs 1, and 31 through 35 of Count III, as paragraphs 1 through 35 of this Count IV.

36. Section 12(d) of the Act, 415 ILCS 5/12(d) (2020), provides as follows:

No person shall:

* * *

(d) Deposit any contaminants upon the land in such place and manner so as to create a water pollution hazard.

* * *

37. By depositing fire suppression water and firefighting foam, each a “contaminant” defined by Section 3.165 of the Act, 415 ILCS 5/3.165 (2020), onto the land in a place and manner that the contaminants could be carried by storm water or fire suppressant water into the Rock River, and/or into the groundwater, Defendant created a water pollution hazard and thereby violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020).

38. Violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary and, after a trial, permanent injunctive relief.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter a preliminary and, after a trial, permanent injunction and an order in favor of Plaintiff and against Defendant, CHEMTOOL, INCORPORATED:

1. Finding that Defendant has violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020);

2. Enjoining Defendant from any further violations of Section 12(d) of the Act, 415 ILCS 5/12(d) (2020);

3. Ordering Defendant to undertake all necessary corrective action that will result in a final and permanent abatement of the violations of Section 12(d) of the Act, 415 ILCS 5/12(d) (2020);

4. Assessing against Defendant, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2020), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of the Act, and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Ordering Defendant, pursuant to 415 ILCS 5/42(f) (2020), to pay all costs, including oversight, sampling and clean-up costs, and attorney, expert witness and consultant fees expended by the Plaintiff in its pursuit of this action; and

6. Granting such other relief as this Court deems appropriate and just.

COUNT V
UNAUTHORIZED WASTE DISPOSAL

1-30. Plaintiff realleges and incorporates by reference herein paragraphs 2 through 27 of Count I, paragraphs 30, 32 and 33 of Count II, and paragraph 1 of Count III, as paragraphs 1 through 30 of this Count V.

31. Section 21(e) of the Act, 415 ILCS 5/21(e) (2020), provides, in pertinent part, as follows:

No person shall:

(e) Dispose, treat, store or abandon any waste, or transport any waste into this State for disposal, treatment, storage or abandonment, except at a site or facility which meets the requirements of this Act and of regulations and standards thereunder.

32. Section 3.535 of the Act, 415 ILCS 5/3.535 (2020), provides the following definition:

"Waste" means any garbage, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows, or coal combustion by-products as defined in Section 3.135, or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as now or hereafter amended, or source, special nuclear, or by-product materials as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 921) or any solid or dissolved material from any facility subject to the Federal Surface Mining Control and Reclamation Act of 1977 (P.L. 95-87) or the rules and regulations thereunder or any law or rule or regulation adopted by the State of Illinois pursuant thereto.

33. Section 3.185 of the Act, 415 ILCS 5/3.185 (2020), provides the following definition:

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste or hazardous waste into or on any land or water or into any well so that such waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

34. Debris, ash, firefighting water, and storm water runoff that came into contact with the Facility after the Fire is "waste" as that term is defined in Section 3.535 of the Act, 415 ILCS 5/3.535 (2020).

35. The deposition and discharge of debris and ash, and the spilling and leaking of firefighting water and storm water runoff from the Facility after the Fire, is “disposal” as that term is defined in Section 3.185 of the Act, 415 ILCS 5/3.185 of the Act, 415 ILCS 5/3.185 (2020).

36. By depositing and discharging debris and ash, and by spilling and leaking firefighting water and storm water runoff from the Facility after the Fire, at a site not permitted for the disposal of waste, Defendant violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2020).

37. Violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary and, after a trial, permanent injunctive relief.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter a preliminary and, after a trial, permanent injunction and an order in favor of Plaintiff and against Defendant, CHEMTOOL, INCORPORATED:

1. Finding that Defendant has violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2020);

2. Enjoining Defendant from any further violations of Section 21(e) of the Act, 415 ILCS 5/21(e) (2020);

3. Ordering Defendant to undertake all necessary corrective action that will result in a final and permanent abatement of the violations of Section 21(e) of the Act, 415 ILCS 5/21(e) (2020);

4. Assessing against Defendant, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2020), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of the Act, and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Ordering Defendant, pursuant to 415 ILCS 5/42(f) (2020), to pay all costs, including oversight, sampling and clean-up costs, and attorney, expert witness and consultant fees expended by the Plaintiff in its pursuit of this action; and

6. Granting such other relief as this Court deems appropriate and just.

COUNT VI
COST RECOVERY

1. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* KWAME RAOUL, Attorney General of the State of Illinois, on his own motion and at the request of IEMA, and *ex rel.* J. HANLEY, State’s Attorney of Winnebago County, Illinois, on his own motion, pursuant to the terms and provisions of Section 10(d) of the Oil Spill Responders Liability Act, 740 ILCS 113/10(d) (2020), and is an action to recover removal costs incurred for overseeing response and cleanup activities arising from the release of oil and its degradation byproducts.

2 -27. Plaintiff realleges and incorporates by reference herein paragraphs 2 through 27 of Count I as paragraphs 2 through 27 of this Count VI.

28. Section 10(d) of the Oil Spill Responders Liability Act, 740 ILCS 113/10(d) (2020), provides as follows:

A responsible party is liable for any damage or removal costs, whether present or future, resulting from or arising out of any discharge, as defined in Section 5.

29. Section 5 of the Oil Spill Responders Liability Act, 740 ILCS 113/5 (2020), provides the following definitions:

“Damages” means damages of any kind for which liability may exist under the laws of this State resulting from, arising out of, or related to the discharge or threatened discharge of oil.

“Discharge” means an emission, other than natural seepage, intentional or unintentional, and includes, but is not limited to, spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

* * *

“Oil” means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with a waste other than dredged spoil, but does not include petroleum, including crude oil or any fraction of crude oil, that is specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of Section 101(14) of the federal Comprehensive Environmental Response Compensation and Liability Act (42 U.S.C. 9601) and that is subject to the provision of that Act.

“Person” means an individual, a corporation, a partnership, an association, the State, a municipality, a commission, or a political subdivision of the State, or an interstate body.

“Removal costs” means the cost of removal incurred after a discharge of oil or when there is a substantial threat of a discharge of oil, the costs to prevent, minimize, or mitigate oil pollution from an incident.

“Responsible party” means a responsible party as defined under Section 1001 of the Oil Pollution Act of 1990, Public Law No. 101-380 (33 U.S.C. 1001).

30. Section 2701(32) of the Oil Pollution Act of 1990, 33 U.S.C. 2701(32), defines

“responsible party” as:

(B) Onshore facilities

In the case of an onshore facility (other than a pipeline), any person owning or operating the facility, except a Federal agency, State, municipality, commission, or political subdivision of a State, or any interstate body, that as the owner transfers possession and right to use the property to another person by lease, assignment, or permit.

31. The State of Illinois and Winnebago County have incurred and will continue to incur damages and costs as a result of the release and threatened release of oil and its degradation byproducts into the environment.

32. CHEMTOOL, INCORPORATED is liable for the State's and the County's removal costs.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this court enter an order in favor of Plaintiff and against Defendant, CHEMTOOL, INCORPORATED:

1. Finding that Defendant is liable for the removal costs incurred by the Plaintiff as a result of the release and threatened release of oil from the Facility as a result of the Fire, pursuant to Section 10(d) of the Oil Spill Responders Liability Act, 740 ILCS 113/10(d); and
2. Granting such other relief as this Court deems appropriate and just.

COUNT VII
COMMON LAW PUBLIC NUISANCE

1. This count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* KWAME RAOUL, Attorney General of the State of Illinois, on his own motion, and *ex rel.* J. HANLEY, State's Attorney of Winnebago County, Illinois, on his own motion.

2-27. Plaintiff realleges and incorporates by reference herein paragraphs 2 through 27 of Count I as paragraphs 2 through 27 of this Count VII.

28. The Illinois Constitution provides the People of the State of Illinois a common right "to a healthful environment." Ill. Const. art XI, sec. 1 (1970).

29. Defendant, by its actions, caused an unreasonable and substantial prejudice to the public health and welfare and the environment, to wit, has through its actions caused a Fire, resulting in a plume of smoke; caused the release of smoke, particulate matter and potentially other unknown contaminants into the air; caused the release of firefighting foam to the Rock River; threatened the release of petroleum products to waters of the State; caused the evacuation of residents within a mile radius of the Facility, and thereby threatened harm to area residents and interfered with their use and enjoyment of the environment and their homes and other property.

30. As a consequence of its actions as alleged herein, Defendant has created and maintained a public nuisance at common law.

31. Plaintiff is without an adequate remedy at law. Plaintiff will be irreparably injured, and violations of the applicable and pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter a preliminary and, after a trial, permanent injunction and an order in favor of Plaintiff and against Defendant, CHEMTOOL, INCORPORATED:

1. Finding that Defendant's actions alleged herein constituted a common law public nuisance;
2. Enjoining Defendant from further acts constituting a common law public nuisance;
3. Ordering the Defendant to immediately undertake the necessary action that will result in a final and permanent abatement of the common law public nuisance;
4. Ordering Defendant, pursuant to 415 ILCS 5/42(f) (2020), to pay all costs, including oversight, sampling and clean-up costs, and attorney, expert witness and consultant fees expended by the Plaintiff in its pursuit of this action; and

5. Granting such other relief as this Court deems appropriate and just.

PEOPLE OF THE STATE OF ILLINOIS,
ex rel. KWAME RAOUL, Attorney
General of the State of Illinois


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

By: 
STEPHEN J. SYLVESTER, Chief
Environmental Bureau
Assistant Attorney General
ARDC No. 6282241

Of Counsel:

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PEOPLE OF THE STATE OF ILLINOIS,
ex rel. J. HANLEY,
State's Attorney of Winnebago County, Illinois

By: 
LAFAKERIA S. VAUGHN
Chief of the Civil Bureau
Assistant State's Attorney

**IN THE CIRCUIT COURT FOR THE SEVENTEENTH JUDICIAL CIRCUIT
WINNEBAGO COUNTY, ILLINOIS
CHANCERY DIVISION**

PEOPLE OF THE STATE OF ILLINOIS,)	
<i>ex rel.</i> KWAME RAOUL, Attorney)	
General of the State Illinois, and <i>ex rel.</i>)	
J. HANLEY, State’s Attorney)	
for Winnebago County, Illinois,)	
)	
Plaintiff,)	
)	
v.)	No.
)	
CHEMTOOL INCORPORATED,)	
a Delaware corporation,)	
)	
Defendant.)	

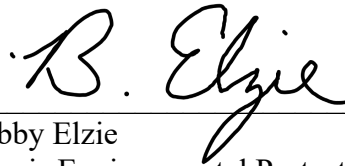
VERIFICATION

I, Bobby Elzie, do state as follows:

1. I am currently employed by the Illinois Environmental Protection Agency, Office of Emergency Response (“Illinois EPA-OER”) in Springfield, Illinois as an Emergency Response Manager.
2. I have been employed by the Illinois EPA-OER for the past 9 months.
3. The duties and responsibilities of my current position include: coordinating Illinois EPA’s role with other local, state, and federal agencies to eliminate, mitigate and prevent any environmental impacts from any emergency.
4. In the course of my employment with the Illinois EPA-OER, I have obtained direct and personal knowledge as to the conditions arising from a fire that began on June 14, 2021, at the Defendant’s facility in Rockton, Illinois.
5. I have read the foregoing Verified Complaint for Injunction and Civil Penalties (the “Complaint”), and am aware of the contents thereof.

5. The factual matters set forth in the Complaint are true in substance and in fact, to the best of my knowledge, information and belief.

6. Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, 735 ILCS 5/1-109, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.



Bobby Elzie
Illinois Environmental Protection Agency

Dated: 07/09/2021