

**IN THE CIRCUIT COURT FOR THE FIFTH JUDICIAL CIRCUIT  
VERMILION COUNTY, STATE OF ILLINOIS**

PEOPLE OF THE STATE OF ILLINOIS,	)	
<i>ex rel.</i> KWAME RAOUL, Attorney General	)	
of the State of Illinois,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 22-CH- 2022CH000011
	)	
BRAINERD CHEMICAL MIDWEST LLC,	)	
an Oklahoma limited liability company,	)	
	)	
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”), complains of Defendant, BRAINERD CHEMICAL MIDWEST LLC, an Oklahoma limited liability company, as follows:

**COUNT I**  
**SUBSTANTIAL ENDANGERMENT TO THE ENVIRONMENT**  
**AND TO 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, pursuant to Section 43(a) of the Illinois Environmental Protection Act (“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 by Section 4 of the Act, 415 ILCS 5/4 (2020), and charged, *inter alia*, with the duty of enforcing the Act.

3. Defendant, BRAINERD CHEMICAL MIDWEST LLC (“BCM” or “Defendant”), at all times relevant to this Verified Complaint, was and is an active Oklahoma limited liability company registered to do business in the State of Illinois and in good standing with the Illinois Secretary of State. BCM’s registered agent is Illinois Corporation Service Company, 801 Adlai Stevenson Drive, Springfield, Illinois 62703.

4. BCM operates a commercial chemical distribution facility located at 209 Brewer Road, Danville, Vermilion County, Illinois (“Facility”). The Facility is located between Brewer Road to the west, and a rail line to the east.

5. As of the date of filing of this Complaint, the Facility is located in an area of Environmental Justice (“EJ”) concern as identified by EJ Start, a mapping tool utilized by Illinois EPA.

6. The Facility handles various chemicals, including hydrofluoric acid, in a commercial setting. BCM operates the Facility as a batch facility, primarily blending hydrofluoric acid and repackaging it for use elsewhere.

7. Hydrofluoric acid is formed when hydrogen fluoride (“HF”) is dissolved in water. The National Institute for Occupational Safety and Health states that HF is a colorless fuming liquid below 67 degrees Fahrenheit, or a colorless gas. When HF is combined with water, it is known as hydrofluoric acid. Hydrofluoric acid that is more than 40 percent HF fumes in air. *See* [https://www.cdc.gov/niosh/ershdb/emergencyresponsecard\\_29750030.html](https://www.cdc.gov/niosh/ershdb/emergencyresponsecard_29750030.html).

8. The National Center for Environmental Health states that HF is a caustic and corrosive agent. HF goes easily and quickly through the skin and into the tissues in the body. There it damages the cells and causes them to not work properly. HF gas can, at low levels, irritate the eyes, nose, and respiratory tract and, at high levels, cause death from an irregular heartbeat or from fluid buildup in the lungs. *See* <https://emergency.cdc.gov/agent/hydrofluoricacid/basics/facts.asp>.

9. At the Facility, BCM receives shipments of hydrofluoric acid; dilutes the acid down to a lower concentration of HF; and repackages the hydrofluoric acid for use elsewhere.

10. The Illinois EPA has issued air pollution control permits for several air emission units at the Facility, including three (3) above ground 8,700-gallon capacity HF storage tanks and one (1) liquid fill station. Emissions of HF from the HF storage tanks and liquid fill station are controlled by a packed wet scrubber.

11. On July 12 and 13, 2022, Illinois EPA's received complaints from three residents (“Residents”) living near the Facility on Brewer Road. Brewer Road is lined mostly by residential properties which lie directly to the west and southwest of the Facility.

12. The Residents advised Illinois EPA that, on Friday, July 8, 2022, all vegetation in their yards had appeared normal, but, on the next day, Saturday, July 9, 2022, a number of plant species and turf grass in their yards had turned brown and appeared dead.

13. On July 15, 2022, Illinois EPA inspected the Facility.

14. On July 15, 2022, Illinois EPA observed damaged and dead vegetation, particularly trees, for approximately a quarter mile south of the Facility’s entrance on Brewer Road.

15. During the July 15, 2022 inspection, Illinois EPA met with the Facility’s plant manager and inspected the Facility’s HF storage tanks and liquid fill station.

16. During the July 15, 2022 inspection, the Facility's plant manager advised Illinois EPA that the Facility operates one shift, Mondays through Fridays. The Facility's plant manager further indicated that the Facility recently had been receiving shipments of hydrofluoric acid on Tuesdays and Fridays.

17. During the July 15, 2022 inspection, the Facility's plant manager advised Illinois EPA that, on July 8, 2022, the Facility had received a shipment of 33,580 pounds of 70 percent HF hydrofluoric acid.

18. Meteorological data from July 8, 2022 for Danville indicates wind from the east and northeast, with high humidity, creating conditions for HF emissions from the Facility to travel toward the Residents' homes on Brewer Street.

19. During the July 15, 2022, inspection, the Facility's plant manager advised Illinois EPA the Facility had received a shipment of 70 percent HF hydrofluoric acid earlier that day.

20. During the July 15, 2022 inspection, Illinois EPA observed the building where the Facility's HF storage tanks and liquid fill station are installed (the "hydrofluoric acid building"). The hydrofluoric acid building is located in the southwest corner of the Facility, about 500 feet from Brewer Road.

21. During the July 15, 2022 inspection, Illinois EPA observed that the hydrofluoric acid building was damaged, with several holes in its metal walls, potentially allowing fugitive HF emissions to escape directly to the atmosphere.

22. During the July 15, 2022 inspection, upon entering the hydrofluoric acid building, Illinois EPA observed an irritating acid odor that caused coughing.

23. During the July 15, 2022 inspection, there was a visible plume of emissions from the packed wet scrubber that controls HF emissions from the HF storage tanks and liquid fill station, drifting in the direction of the Residents' homes on Brewer Road.

24. During the July 15, 2022 inspection, Illinois EPA requested operational, inspection, maintenance, and repair records for the packed wet scrubber. The Facility's plant manager advised that no such records existed, and produced no such records.

25. During the July 15, 2022 inspection, the Facility's plant manager advised Illinois EPA that one of the three permitted HF storage tanks had arrived defective, and had not been used since installation.

26. During the July 15, 2022 inspection, Illinois EPA observed two (2) new, uninstalled, storage tanks outside of the hydrofluoric acid building. The Facility's plant manager indicated that Defendant intended to install these tanks to replace the defective storage tank and add a new final product storage tank. As of the July 15, 2022 inspection, the new storage tanks required a construction permit and were not included within the Facility's existing permits. As of the July 15, 2022 inspection, Defendant had not submitted any permit applications to Illinois EPA concerning the new storage tanks.

27. Subsequent to the July 15, 2022 inspection, the Illinois EPA advised the Defendant to stop receiving hydrofluoric acid shipments and repackaging/shipping hydrofluoric acid at the Facility, take measures to prevent any further release of hydrofluoric acid from the Facility, and retain a third-party to conduct an assessment of the HF storage tanks and packed wet scrubber to determine the cause of the release of hydrofluoric acid. At that time, Defendant theorized the packed wet scrubber could be close to saturation.

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. The Facility's inadequately controlled emissions of HF into the atmosphere constitute a substantial danger to the environment and to the public health and welfare of residents in the area surrounding the Facility. Without an adequate and expeditious response by BCM, the potential for additional emissions of HF will continue to threaten the health and property of State residents.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Court grant an immediate and preliminary injunction and, after trial, a permanent injunction in favor of the Plaintiff and against Defendant, BRAINERD CHEMICAL MIDWEST LLC, on this Count I, as follows:

- A. Finding that BRAINERD CHEMICAL MIDWEST LLC has created and is maintaining a substantial danger to the environment and to the public health and welfare;
- B. Enjoining BRAINERD CHEMICAL MIDWEST LLC from creating any further substantial endangerment pursuant to Section 43(a) of the Act, 415 ILCS 5/43(a) (2020);
- C. Entering an immediate injunction ordering BRAINERD CHEMICAL MIDWEST LLC to cease and desist from receiving and shipping hydrofluoric acid at the Facility until such time as the Facility has complied, and is in compliance, with all applicable statutory, regulatory,

and permit requirements, and to take all actions required to bring the Facility into compliance with all applicable statutory, regulatory, and permit requirements; and

D. Granting such other relief as this Court deems equitable 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, pursuant to Sections 42(d) and (e) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/42(d) and (e) (2020).

2-27. Plaintiff re-alleges 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 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.

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

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

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

32. 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.

33. Section 201.141 of the Illinois Pollution Control Board’s (“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.

34. HF is a “contaminant” as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2020).

35. The presence of HF in the atmosphere is injurious to human health and plant life and unreasonably interferes with the enjoyment of life or property so as to constitute “air pollution” as that term is defined in Section 3.115 of the Act, 415 ILCS 5/3.115 (2020).

36. On July 8, 2022 and July 15, 2022, and on dates better known to BCM, BCM caused, threatened, or allowed the emission of HF into the environment.

37. By causing, threatening, or allowing the discharge or emission of contaminants into the environment so as to cause or tend to cause air pollution in Illinois, BCM has violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2020), and Section 201.141 of the Board’s Air Pollution Regulations, 35 Ill. Adm. Code 201.141.



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

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Court grant an immediate and preliminary injunction and, after trial, a permanent injunction in favor of the Plaintiff and against Defendant, BRAINERD CHEMICAL MIDWEST LLC, on this Count II, as follows:

A. Finding that BRAINERD CHEMICAL MIDWEST LLC has violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2020), and Section 201.141 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.141;

B. Enjoining BRAINERD CHEMICAL MIDWEST LLC from further violation of Section 9(a) of the Act, 415 ILCS 5/9(a) (2020), and Section 201.141 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.141;

C. Ordering BRAINERD CHEMICAL MIDWEST LLC to immediately undertake the necessary corrective action that will result in a final and permanent abatement of violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2020), and Section 201.141 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.141, including but not limited to ceasing and desisting from receiving and shipping hydrofluoric acid at the Facility until such time as the Facility has complied, and is in compliance, with all applicable statutory, regulatory, and permit requirements;

D. Assessing against BRAINERD CHEMICAL MIDWEST LLC, 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 violation of the Act and the Board's regulations, and an additional Ten Thousand Dollars (\$10,000.00) for each day each violation continues;

E. Assessing all costs against BRAINERD CHEMICAL MIDWEST LLC, including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2020); and

F. Granting such other relief as this Court deems equitable and just.

**COUNT III**  
**FAILURE TO MAINTAIN AND OPERATE EMISSION UNITS**  
**AND AIR POLLUTION CONTROL EQUIPMENT IN A MANNER**  
**CONSISTENT WITH GOOD AIR POLLUTION CONTROL PRACTICES**

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, pursuant to Sections 42(d) and (e) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/42(d) and (e) (2020).

2-37. Plaintiff re-alleges and incorporates by reference herein paragraphs 2 through 27 of Count I, and paragraphs 28 through 37 of Count II, as paragraphs 2 through 37 of this Count III.

38. Defendant operates the Facility’s HF storage tanks, liquid fill station, and packed wet scrubber pursuant to operating permit no. 72100740 (“Operating Permit”) and construction permit no. 20100022 (“Construction Permit”), issued to Defendant by Illinois EPA on January 15, 2021.

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

No person shall:

- (b) Construct, install, or operate any equipment, facility, vehicle, vessel, or aircraft capable of causing or contributing to air pollution or designed to prevent air pollution, of any type designated by Board regulations, without a permit granted by the Agency unless otherwise exempt by this Act or Board regulations or in violation of any conditions imposed by such permit.

40. The Facility’s HF storage tanks and liquid fill station are equipment capable of causing or contributing to air pollution.

41. The Facility's packed wet scrubber is equipment designed to prevent air pollution.

42. Condition 4(a) of the Construction Permit provides as follows:

The Permittee shall, in accordance with the manufacturer(s) and/or vendor(s) recommendations, perform periodic maintenance on the Packed Wet Scrubber associated with HF Storage Tanks and Liquid Fill Station, such that the wet scrubber is kept in proper working condition and not cause a violation of the Illinois Environmental Protection Act or regulations promulgated therein.

43. Standard Condition 7 of the Construction Permit provides as follows:

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

44. Condition 6(a) of the Operating Permit provides as follows:

The Permittee shall, in accordance with the manufacturer(s) and/or vendor(s) recommendations, perform periodic maintenance on the Packed Wet Scrubber associated with HF Storage Tanks and Liquid Fill Station, such that the Wet Scrubber is kept in proper working condition and not cause a violation of the Illinois Environmental Protection Act or regulations promulgated therein.

45. Standard Condition 7 of the Operating Permit provides as follows:

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

46. By failing to provide appropriate maintenance on the packed wet scrubber controlling the Facility's HF storage tanks and liquid fill station, so as to cause and allow HF emissions that violated the Act and Board regulations, BCM violated Condition 4(a) and Standard Condition 7 of the Construction Permit and Condition 6(a) and Standard Condition 7 of the Operating Permit.

47. Condition 6(c) of the Operating Permit provides as follows:

- c. At all times, the Permittee shall to the extent practicable, maintain and operate the emission sources and associated control equipment, in a manner consistent with good air pollution control practice for minimizing emissions.

48. By failing to properly operate and to provide appropriate maintenance on the packed wet scrubber controlling the Facility's HF storage tanks and liquid fill station, BCM failed to maintain and operate the Facility's emission sources and associated control equipment in a manner consistent with good air pollution control practice for minimizing emissions, and thereby violated Condition 6(c) of the Operating Permit.

49. By violating Condition 4(a) and Standard Condition 7 of the Construction Permit, and Conditions 6(a) and 6(c) and Standard Condition 7 of the Operating Permit, BCM thereby violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2020).

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

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Court grant an immediate and preliminary injunction and, after trial, a permanent injunction in favor of the Plaintiff and against Defendant, BRAINERD CHEMICAL MIDWEST LLC, on this Count III, as follows:

A. Finding that BRAINERD CHEMICAL MIDWEST LLC has violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2020), Condition 4(a) and Standard Condition 7 of construction permit no. 20100022, and Conditions 6(a) and 6(c) and Standard Condition 7 of operating permit no. 72100740;

B. Enjoining BRAINERD CHEMICAL MIDWEST LLC from further violation of Section 9(b) of the Act, 415 ILCS 5/9(b) (2020), Condition 4(a) and Standard Condition 7 of

construction permit no. 20100022, and Conditions 6(a) and 6(c) and Standard Condition 7 of operating permit no. 72100740;

C. Ordering BRAINERD CHEMICAL MIDWEST LLC to immediately undertake the necessary corrective action that will result in a final and permanent abatement of violations of Section 9(b) of the Act, 415 ILCS 5/9(b) (2020), Condition 4(a) and Standard Condition 7 of construction permit no. 20100022, and Conditions 6(a) and 6(c) and Standard Condition 7 of operating permit no. 72100740, including but not limited to ceasing and desisting from receiving and shipping HF at the Facility until such time as the Facility has complied, and is in compliance, with all applicable statutory, regulatory, and permit requirements;

D. Assessing against BRAINERD CHEMICAL MIDWEST LLC, 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 violation of the Act, construction permit no. 20100022, and operating permit no. 72100740, and an additional Ten Thousand Dollars (\$10,000.00) for each day each violation continues;

E. Assessing all costs against BRAINERD CHEMICAL MIDWEST LLC, including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2020); and

F. Granting such other relief as this Court deems equitable and just.

**COUNT IV**  
**FAILURE TO KEEP REQUIRED RECORDS**

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, pursuant to Sections 42(d) and (e) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/42(d) and (e) (2020).

2-37. Plaintiff re-alleges and incorporates by reference herein paragraphs 2 through 27 of Count I; paragraphs 29 through 32, 34, and 35 of Count II; and paragraphs 38 through 41 of Count III as paragraphs 2 through 37 of this Count IV.

38. Condition 7(a) of the Construction Permit provides as follows:

The Permittee shall maintain records of the following items so as to demonstrate compliance with the conditions of this permit:

- i. Records addressing use of good operating practices for the Packed Wet Scrubber system associated with HF Storage Tanks and Liquid Fill Station:
  - A. Records for periodic inspection of Packed Wet Scrubber with date, individual performing the inspection, and nature of inspection; and
  - B. Records for prompt repair of defects, with identification and description of defect, effect on emissions, date identified, date repaired, and nature of repair.
- ii. HF throughput for HF Storage Tanks and Liquid Fill Station (gallons/month and gallons/year); and
- iii. HF emissions from the HF Storage Tanks and Liquid Fill Station with supporting calculation (tons/month and tons/year).

39. Condition 7(b) of the Construction Permit provides as follows:

- b. All records and logs required by Condition 7(a) of this permit shall be retained at a readily accessible location at the source for at least three (3) years from the date of entry and shall be made available for inspection and copying by the Illinois EPA or USEPA upon request. Any records retained in an electronic format (e.g., computer storage device) shall be capable of being retrieved and printed on paper during normal source office hours so as to be able to respond to an Illinois EPA or USEPA request for records during the course of a source inspection.

40. Standard Condition 8 of the Construction Permit provides as follows:

The Permittee shall maintain a maintenance record on the premises for each item of air pollution control equipment. These records shall be made

available to any agent of the Environmental Protection Agency at any time during normal working hours and/or operating hours. At a minimum, this record shall show the dates of performance and nature of preventative maintenance activities.

41. Condition 9(a) of the Operating Permit provides as follows:

The Permittee shall maintain records of the following items so as to demonstrate compliance with the conditions of this permit:

- i. Records addressing use of good operating practices for Packet Wet Scrubber associated with HF Storage Tanks and Liquid Fill Station:
  - a. Records for periodic inspection of Packet Wet Scrubber with date, individual performing the inspection, and nature of inspection; and
  - b. Records for prompt repair of defects, with identification and description of defect, effect on emissions, date identified, date repaired, and nature of repair.
- ii. HF throughput for the HF Storage Tanks and Liquid Filling Station (tons/month and tons/year); and
- iii. Emissions of Class II substance subject to a standard promulgated under or established by Title VI of the Clean Air Act (tons/month and tons/year) with supporting calculations.
- iv. HF emissions from the HF Storage Tanks and Liquid Fill Station with supporting calculations (tons/month and tons/year).

42. Standard Condition 8 of the Operating Permit provides as follows:

The Permittee shall maintain a maintenance record on the premises for each item of air pollution control equipment. These records shall be made available to any agent of the Environmental Protection Agency at any time during normal working hours and/or operating hours. At a minimum, this record shall show the dates of performance and nature of preventative maintenance activities.

43. During Illinois EPA's July 15, 2022 inspection, BCM had no records concerning the inspection, repair, or maintenance of the packed wet scrubber controlling HF emissions from

the Facility's HF storage tanks and liquid fill station; no records of HF throughput for the HF storage tanks and liquid fill station; and no records of HF emissions from the HF storage tanks and liquid fill station.

44. By failing to keep records concerning the inspection, repair, or maintenance of the packed wet scrubber controlling HF emissions from the Facility's HF storage tanks and liquid fill station, HF throughput, or HF emissions, BCM violated Conditions 7(a) and 7(b) and Standard Condition 8 of the Construction Permit, and Conditions 9(a) and 9(b) and Standard Condition 8 of the Operating Permit.

45. By violating Conditions 7(a) and 7(b) and Standard Condition 8 of the Construction Permit, and Conditions 9(a) and 9(b) and Standard Condition 8 of the Operating Permit, BCM thereby violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2020).

46. Violations of the pertinent environmental statutes will continue unless and until this Court grants equitable relief in the form of permanent injunctive relief.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Court grant an immediate and preliminary injunction and, after trial, a permanent injunction in favor of the Plaintiff and against Defendant, BRAINERD CHEMICAL MIDWEST LLC, on this Count IV, as follows:

A. Finding that BRAINERD CHEMICAL MIDWEST LLC has violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2020), Conditions 7(a) and 7(b) and Standard Condition 8 of construction permit no. 20100022, and Conditions 9(a) and 9(b) and Standard Condition 8 of operating permit no. 72100740;



B. Enjoining BRAINERD CHEMICAL MIDWEST, LLC, from further violation of Section 9(b) of the Act, 415 ILCS 5/9(b) (2020), Conditions 7(a) and 7(b) and Standard Condition 8 of construction permit no. 20100022, and Conditions 9(a) and 9(b) and Standard Condition 8 of operating permit no. 72100740;

C. Ordering BRAINERD CHEMICAL MIDWEST LLC to immediately undertake the necessary corrective action that will result in a final and permanent abatement of violations of Section 9(b) of the Act, 415 ILCS 5/9(b) (2020), Conditions 7(a) and 7(b) and Standard Condition 8 of construction permit no. 20100022, and Conditions 9(a) and 9(b) and Standard Condition 8 of operating permit no. 72100740, including but not limited to ceasing and desisting from receiving and shipping HF at the Facility until such time as the Facility has complied, and is in compliance, with all applicable statutory, regulatory, and permit requirements;

D. Assessing against BRAINERD CHEMICAL MIDWEST LLC, 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 violation of the Act, construction permit no. 20100022, and operating permit no. 72100740, and an additional Ten Thousand Dollars (\$10,000.00) for each day each violation continues;

E. Assessing all costs against BRAINERD CHEMICAL MIDWEST LLC, including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2020); and

F. Granting such other relief as this Court deems equitable and just.

**COUNT V**  
**FAILURE TO SUBMIT**  
**COMPLETE AND ACCURATE ANNUAL EMISSIONS REPORTS**

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, pursuant to Sections 42(d) and (e) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/42(d) and (e) (2020).

2-37. Plaintiff re-alleges and incorporates by reference herein paragraphs 2 through 27 of Count I; paragraphs 29 through 32, 34, and 35 of Count II; and paragraphs 38 through 41 of Count III as paragraphs 2 through 37 of this Count V.

38. Section 201.102 of the Board’s Air Pollution Regulations, 35 Ill. Adm. Code 201.102, provides, in pertinent part, the following definitions:

“Air Contaminant”: any solid, liquid or gaseous matter, any odor or any form of energy, that is capable of being released into the atmosphere from an emission source.

\* \* \*

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

\* \* \*

“Specified Air Contaminant”: any air contaminant as to which this Subtitle contains emission standards or other specific limitations and any contaminant regulated in Illinois pursuant to Section 9.1 of the Act.

39. HF is an “air contaminant” as that term is defined under Section 201.102 of the Board’s Air Pollution Regulations, 35 Ill. Adm. Code 201.102.

40. The Facility is an “emission source” as that term is defined under Section 201.102 of the Board’s Air Pollution Regulations, 35 Ill. Adm. Code 201.102.

41. Section 201.302(a) of the Illinois Pollution Control Board’s (“Board”) Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), provides as follows:

- a) The owner or operator of any emission unit or air pollution control equipment meeting the applicability criteria contained in 35 Ill. Adm. Code 254.102 shall submit to the Agency as a minimum, annual reports detailing the nature, specific emission units and total annual quantities of all specified air contaminant emissions; provided, however, that the Agency may require more frequent reports when necessary to accomplish the purposes of the Act and this Chapter.

42. Section 254.102(b) of the Illinois EPA's Air Pollution Regulations, 35 Ill. Adm.

Code 254.102(b), provides as follows:

- b) Subpart C of this Part applies to the owner or operator of any source of regulated air pollutants required to have an operating permit in accordance with 35 Ill. Adm. Code 201 that is not subject to subsection (a) of this Section.

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

Code 254.132(a), provides as follows:

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

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

Code 254.137(a), provides as follows:

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

45. Section 211.4370 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code

211.4370, provides the following definition:

“Owner or operator” means any person who owns, operates, leases, controls, or supervises a source, an emission unit or air pollution control equipment.

46. Section 211.5500(b) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 211.5500(b), provides the following definition:

- b) "Regulated air pollutant" shall, for the purposes of 35 Ill. Adm. Code 201.180(a), mean any air contaminant as to which this Subtitle contains emission standards or other specific limitations and any contaminant regulated in Illinois pursuant to Section 9.1 of the Act.

47. Section 211.1950 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 211.1950, provides the following definition:

"Emission unit" means any part or activity at a stationary source that emits or has the potential to emit any air pollutant.

48. Standard Condition 11 of the Construction Permit provides as follows:

The Permittee shall submit an Annual Emission Report as required by 35 Ill. Adm. Code 201.302 and 35 Ill. Adm. Code Part 254.

49. BCM failed to submit complete and accurate AERs in each year of operation, in that the AERs submitted to the Illinois EPA failed to specify HF emissions.

50. By failing to submit complete and accurate AERs for the Facility, BCM violated Section 201.302(a) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), Section 254.132(a) of the Illinois EPA's Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a), and Standard Condition 11 of the Construction Permit.

51. By violating Section 201.302(a) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Section 254.132(a) of the Illinois EPA's Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a), BCM thereby violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2020).

52. By violating Standard Condition 11 of the Construction Permit, BCM thereby violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2020).

53. 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 trial, permanent injunctive relief.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Court grant an immediate and preliminary injunction and, after trial, a permanent injunction in favor of the Plaintiff and against Defendant, BRAINERD CHEMICAL MIDWEST LLC, on this Count V, as follows:

A. Finding that BRAINERD CHEMICAL MIDWEST LLC has violated Sections 9(a) and (b) of the Act, 415 ILCS 5/9(a) and (b) (2020), Section 201.302(a) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), Section 254.132(a) of the Illinois EPA's Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a), and Standard Condition 11 of construction permit no. 20100022;

B. Enjoining BRAINERD CHEMICAL MIDWEST LLC from further violation of Sections 9(a) and (b) of the Act, 415 ILCS 5/9(a) and (b) (2020), Section 201.302(a) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), Section 254.132(a) of the Illinois EPA's Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a), and Standard Condition 11 of construction permit no. 20100022;

C. Ordering BRAINERD CHEMICAL MIDWEST LLC to immediately undertake the necessary corrective action that will result in a final and permanent abatement of violations of Sections 9(a) and (b) of the Act, 415 ILCS 5/9(a) and (b) (2020), Section 201.302(a) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), Section 254.132(a) of the Illinois EPA's Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a), and Standard Condition 11 of

construction permit no. 20100022, including but not limited to submitting to the Illinois EPA revised AERs for each year of operation;

D. Assessing against BRAINERD CHEMICAL MIDWEST LLC, 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 violation of the Act, the Board's regulations, and construction permit no. 20100022, and an additional Ten Thousand Dollars (\$10,000.00) for each day each violation continues;

E. Assessing all costs against BRAINERD CHEMICAL MIDWEST LLC, including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2020); and

F. Granting such other relief as this Court deems equitable and just.

**COUNT VI**  
**FAILURE TO SUBMIT DEVIATION REPORTS**

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, pursuant to Sections 42(d) and (e) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/42(d) and (e) (2020).

2-60. Plaintiff re-alleges and incorporates by reference herein paragraphs 2 through 27 of Count I; paragraphs 29 through 32, 34, and 35 of Count II; paragraphs 42 through 48 of Count III; paragraphs 38 through 44 of Count IV; and paragraphs 38 through 50 of Count V as paragraphs 2 through 60 of this Count VI.

61. Condition 8 of the Construction Permit provides as follows:

If there is an exceedance of or a deviation from the requirements of this permit as determined by the records required by this permit or otherwise, the Permittee shall submit a report to the Illinois EPA's Bureau of Air Compliance Section in Springfield, Illinois within thirty (30) days after the exceedance or deviation. The report shall identify the duration and the emissions impact of the exceedance or deviation, a copy of the relevant

records and information to resolve the exceedance or deviation, and a description of the efforts to reduce emissions from, and the duration of exceedance or deviation, and to prevent future occurrences of any such exceedance or deviation.

62. Condition 10 of the Operating Permit provides as follows:

If there is an exceedance of or a deviation from the requirements of this permit as determined by the records required by this permit or otherwise, the Permittee shall submit a report to the Illinois EPA's Bureau of Air Compliance Section in Springfield, Illinois within thirty (30) days after the exceedance or deviation. The report shall identify the duration and the emissions impact of the exceedance or deviation, a copy of the relevant records and information to resolve the exceedance or deviation, and a description of the efforts to reduce emissions from, and the duration of exceedance or deviation, and to prevent future occurrences of any such exceedance or deviation.

63. On dates better known to BCM, BCM failed to timely submit to Illinois EPA reports of the deviations from the requirements of the Construction Permit and Operating Permit alleged in this Complaint.

64. By failing to timely submit to the Illinois EPA deviation reports, BCM has violated Condition 8 of the Construction Permit and Condition 10 of the Operating Permit.

65. By violating Condition 8 of the Construction Permit and Condition 10 of the Operating Permit, BCM thereby violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2020).

66. 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 trial, permanent injunctive relief.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Court grant an immediate and preliminary injunction and, after trial, a permanent

injunction in favor of the Plaintiff and against Defendant, BRAINERD CHEMICAL MIDWEST LLC, on this Count VI, as follows:

A. Finding that BRAINERD CHEMICAL MIDWEST LLC has violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2020), Condition 8 of construction permit no. 20100022, and Condition 10 of operating permit no. 72100740;

B. Enjoining BRAINERD CHEMICAL MIDWEST LLC from further violation of Section 9(b) of the Act, 415 ILCS 5/9(b) (2020), Condition 8 of construction permit no. 20100022, and Condition 10 of operating permit no. 72100740;

C. Ordering BRAINERD CHEMICAL MIDWEST LLC to immediately undertake the necessary corrective action that will result in a final and permanent abatement of violations of Section 9(b) of the Act, 415 ILCS 5/9(b) (2020), Condition 8 of construction permit no. 20100022, and Condition 10 of operating permit no. 72100740, including but not limited to timely submitting all required deviation reports, and developing and implementing a policy to timely submit future deviation reports;

D. Assessing against BRAINERD CHEMICAL MIDWEST LLC, 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 violation of the Act, construction permit no. 20100022, and operating permit no. 72100740, and an additional Ten Thousand Dollars (\$10,000.00) for each day each violation continues;

E. Assessing all costs against BRAINERD CHEMICAL MIDWEST LLC, including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2020); and

F. Granting such other relief as this Court deems equitable and just.



**COUNT VII**  
**FAILURE TO OBTAIN CONSTRUCTION PERMIT**

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, pursuant to Sections 42(d) and (e) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/42(d) and (e) (2020).

2-34. Plaintiff re-alleges and incorporates by reference herein paragraphs 2 through 27 of Count I; paragraphs 29 through 32, 34, and 35 of Count II; and paragraph 39 of Count III as paragraphs 2 through 34 of this Count VII.

35. Section 201.142 of the Board’s Air Pollution Regulations, 35 Ill. Adm. Code 201.142, provides as follows:

No person shall cause or allow the construction of any new emission source or any new air pollution control equipment, or cause or allow the modification of any existing emission source or air pollution control equipment, without first obtaining a construction permit from the Agency, except as provided in Sections 201.146 or Section 201.170(b) of this Part.

36. The two new HF storage tanks present at the Facility during Illinois EPA’s July 15, 2022 inspection are both new emission sources.

37. BCM’s placement of the two new HF storage tanks at the Facility constituted construction of the tanks.

38. By failing to obtain a construction permit prior to construction of the two new HF storage tanks at the Facility, BCM violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2020), and Section 201.142 of the Board’s Air Pollution Regulations, 35 Ill. Adm. Code 201.142.

39. Section 9.12 of the Act, 415 ILCS 5/9.12 (2020), provides as follows:

(a) An applicant for a new or revised air pollution construction permit shall pay a fee, as established in this Section, to the Agency at the time that he or she submits the application for a construction permit.

Except as set forth below, the fee for each activity or category listed in this Section is separate and is cumulative with any other applicable fee listed in this Section.

40. As of Illinois EPA's July 15, 2022 inspection, BCM had failed to pay construction permit fees for the two new HF storage tanks at the Facility.

41. By failing to pay construction permit fees for the two new HF storage tanks at the Facility, BCM violated Section 9.12 of the Act, 415 ILCS 5/9.12 (2020).

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

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Court grant an immediate and preliminary injunction and, after trial, a permanent injunction in favor of the Plaintiff and against Defendant, BRAINERD CHEMICAL MIDWEST LLC, on this Count VII, as follows:

A. Finding that BRAINERD CHEMICAL MIDWEST LLC has violated Sections 9(b) and 9.12 of the Act, 415 ILCS 5/9(b) and 9.12 (2020), and Section 201.142 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.142;

B. Enjoining BRAINERD CHEMICAL MIDWEST LLC from further violation of Sections 9(b) and 9.12 of the Act, 415 ILCS 5/9(b) and 9.12 (2020), and Section 201.142 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.142;

C. Ordering BRAINERD CHEMICAL MIDWEST LLC to immediately undertake the necessary corrective action that will result in a final and permanent abatement of violations of Sections 9(b) and 9.12 of the Act, 415 ILCS 5/9(b) and 9.12, including but not limited to obtaining all required permits and submitting all required fees to Illinois EPA;

D. Assessing against BRAINERD CHEMICAL MIDWEST LLC, 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 violation of the Act and the Board’s regulations, and an additional Ten Thousand Dollars (\$10,000.00) for each day each violation continues;

E. Assessing all costs against BRAINERD CHEMICAL MIDWEST LLC, including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2020); and

F. Granting such other relief as this Court deems equitable and just.

Respectfully submitted,

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: /s/ Andrew B. Armstrong  
ANDREW B. ARMSTRONG, Chief  
Environmental Bureau  
Assistant Attorney General  
ARDC # 6282447

DATED: August 5, 2022

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**IN THE CIRCUIT COURT FOR THE FIFTH JUDICIAL CIRCUIT  
VERMILION COUNTY, STATE OF ILLINOIS**

PEOPLE OF THE STATE OF ILLINOIS, )  
*ex rel.* KWAME RAOUL, Attorney General )  
of the State of Illinois, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
BRAINERD CHEMICAL MIDWEST LLC, )  
an Oklahoma limited liability company, )  
 )  
Defendant. )

No. 22-CH- 2022CH000011

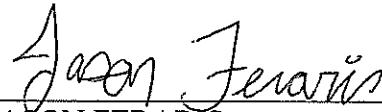
**VERIFICATION**

I, JASON FERARIS, being duly sworn, on oath state as follows:

1. I am currently employed by the Illinois Environmental Protection Agency, Bureau of Air (“Illinois EPA-BOA”) as an Environmental Protection Engineer III in Springfield, Illinois.
2. I have been employed by Illinois EPA-BOA since October of 2018.
3. As relevant to the complaint, the duties and responsibilities of my position include: performing plant site inspections and investigating citizen complaints of air pollution.
4. In the course of my employment with the Illinois EPA-BOA, I have obtained direct and personal knowledge as to the conditions arising from the Illinois EPA-BOA July 15, 2022 inspection of Brainerd Chemical Midwest’s facility located at 209 Brewer Road, Danville, Vermilion County, Illinois.
5. I have read the foregoing Verified Complaint for Injunctive and Other Relief (the “Complaint”), I and am aware of the contents thereof.

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 paragraphs 4, 6, 9 through 17, and 19 through 26 of Count I; paragraph 43 of Count IV; and paragraph 36 of Count VII in the Complaint and in this Verification 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.

FURTHER AFFIANT SAYETH NOT



JASON FERARIS

Environmental Protection Engineer III  
Illinois Environmental Protection Agency  
Bureau of Air

August 2, 2022  
Date

**IN THE CIRCUIT COURT FOR THE FIFTH JUDICIAL CIRCUIT  
VERMILION COUNTY, STATE OF ILLINOIS**

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

Plaintiff, )

v. )

BRAINERD CHEMICAL MIDWEST LLC, )  
an Oklahoma limited liability company, )

Defendant. )

No. 22-CH- 2022CH000011

**VERIFICATION**

I, KENT MOHR, being duly sworn, on oath state as follows:

1. I am currently employed by the Illinois Environmental Protection Agency, Bureau of Air (“Illinois EPA-BOA”) as Manager of the Compliance Section in Springfield, Illinois.
2. I have been employed by Illinois EPA-BOA since December 2017.
3. As relevant to the complaint, the duties and responsibilities of my position include: directing and managing compliance matters concerning air pollution for the Illinois EPA-BOA.
4. In the course of my employment with the Illinois EPA-BOA, I have obtained direct and personal knowledge as to the conditions arising from the Illinois EPA-BOA July 15, 2022 inspection of Brainerd Chemical Midwest’s facility located at 209 Brewer Road, Danville, Vermilion County, Illinois.
5. I have read the foregoing Verified Complaint for Injunctive and Other Relief (the “Complaint”), and am aware of the contents thereof.

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 paragraph 27 of Count I; paragraphs 38, 40, and 41 of Count III; paragraph 49 of Count V; paragraph 63 of Count VI; and paragraphs 37 and 40 of Count VII in the Complaint and in this Verification 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.

FURTHER AFFIANT SAYETH NOT



KENT MOHR  
Manager, Compliance Section  
Illinois Environmental Protection Agency  
Bureau of Air

8-1-22

Date