

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

PEOPLE OF THE STATE OF ILLINOIS,)
ex rel. KWAME RAOUL, Attorney General)
of the State of Illinois, and)
CITY OF CHICAGO, an Illinois municipal)
corporation,)
)
Plaintiffs,)
)
v.)
)
A-F ACQUISITION, LLC, d/b/a PULLMAN)
INNOVATIONS, a Delaware limited liability)
company,)
)
Defendant.)

No. 2026CH07510

**PLAINTIFFS’ MOTION FOR TEMPORARY RESTRAINING ORDER AND
PRELIMINARY INJUNCTION ON COUNTS I, II, VII, AND VIII OF THE
COMPLAINT**

NOW COME PLAINTIFFS, PEOPLE OF THE STATE OF ILLINOIS (“People”), *ex rel.* KWAME RAOUL, Attorney General of the State of Illinois, pursuant to Section 42(e) of the Illinois Environmental Protection Act, 415 ILCS 5/42(e) (2024), and the CITY OF CHICAGO (“City”), pursuant to Municipal Code of Chicago (“Code”) Sections 2-31-040(a)(15), 7-28-020, and 11-4-810 (collectively, “Code Injunctive Authority”), and move this Court for a temporary restraining order (“TRO”) and thereafter a preliminary injunction on Counts I, II, VII, and VIII of the Complaint, which are incorporated herein by reference, against Defendant A-F Acquisition, LLC, d/b/a Pullman Innovations (“Defendant”). In support thereof, Plaintiffs state as follows:

I. INTRODUCTION

1. On August 5, 2026, Plaintiffs filed their Complaint for Injunctive Relief and Civil Penalties (“Complaint”) against Defendant, alleging violations of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/1 *et seq.*, Illinois Pollution Control Board (“Board”)

regulations, certain permit provisions governing Defendant's operation, and Code Sections 7-28-080 and 11-4-730, at Defendant's facility located at 2701 E. 100th Street, Chicago, Cook County, Illinois ("Facility"). The Facility consists of multiple buildings, where Defendant performs soapstock acidulation, a process that converts a by-product of commercial edible oil into commercial animal feed ingredients. Complaint, Count I, ¶ 4; Affidavit of Daniel Delgado ("Delgado Affidavit"), attached hereto as Exhibit 1, ¶ 6. The Facility also has outdoor loading and unloading activities. Delgado Affidavit, ¶ 6.

2. Relevant to this motion, Counts I, II, VII, and VIII of the Complaint allege:

Count I: Causing, threatening, or allowing air pollution in violation of Section 9(a) of the Act, 415 ILCS 5/9(a) (2024), and Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141.

Count II: Air pollution in violation of permit conditions in violation of Section 9(b) of the Act, 415 ILCS 5/9(b) (2024), and Special Condition 5 of Lifetime Operating Permit 86050044.

Count VII: Air pollution in violation of Code Section 11-4-730.

Count VIII: Nuisance in connection with a business in violation of Code Section 7-28-080 (collectively, Code Sections 7-28-080 and 11-4-730 will be referred to as the "Code Odor Provisions.")

3. Plaintiffs now file this motion for a TRO and preliminary injunction against Defendant, requesting that the Court enter an order granting the relief set forth herein.

II. ARGUMENT

A. Upon Showing that Defendant Violated the Act and the Code, Plaintiffs are Entitled to Both a TRO and a Preliminary Injunction.

4. When an injunction is sought pursuant to a statute or ordinance, such as Section 42(e) of the Act or the Code Injunctive Authority, the traditional requirements for issuance of an injunction are obviated, and the requirements of the statute control. *Env't Protection Agency v. Fitz-Mar, Inc.*, 178 Ill. App. 3d 555, 560 (1st Dist. 1988).

5. Traditional equitable requirements are superseded by the statute or ordinance because the legislature has determined that in its passage of the applicable statute or ordinance, a violation of the statute or ordinance itself causes irreparable injury for which no remedy exists. *People ex rel. Sherman v. Cryns*, 203 Ill. 2d 264, 277-78 (2003); *Fitz-Mar*, 178 Ill. App. 3d at 560. To obtain an injunction, the State or unit of local government need only allege and show that (a) the statute or ordinance relied upon specifically allows for injunctive relief, and (b) the statute or ordinance was violated. *Cryns*, 203 Ill. 2d at 277; *City of Rock Falls v. Aims Indus. Services, LLC*, 2024 IL 129164, ¶¶ 22-24 (holding that ordinances have the full force of law as statutes and, thus, municipality was only required to show the defendant had violated the ordinance to receive injunctive relief authorized by ordinance).

6. In *People v. Mika Timber Co., Inc.*, the Court articulated the rationale underlying this longstanding rule regarding the Act:

Absent is the necessity to prove irreparable damage or the lack of an adequate remedy at law. Such common law requirements for the issuance of equitable relief are suspended because the legislature has already determined, in passing the applicable statute, that violations of the statute cause irreparable injury for which no adequate remedy exists.

221 Ill. App. 3d 192, 193 (5th Dist. 1991); *see Fitz-Mar*, 178 Ill. App. 3d at 561 (General Assembly has determined that any violations of the Act constitute *per se* contributions to, or causes of, environmental damage); *see also County of DuPage v. Gavrilos*, 359 Ill. App. 3d 629, 634 (2d Dist. 2005) (“In the enforcement of any statute or ordinance, there is a presumption that the public is harmed when the statute or ordinance is violated.”).

7. In the case of an injunction under Section 42(e) of the Act, 415 ILCS 5/42(e) (2024), and under the Code Injunctive Authority, upon a showing of a violation, the trial court has no discretion to refuse to issue an injunction to enforce the terms of the Act or the Code.

Cryns, 203 Ill. 2d at 278 (“It is presumed that public harm occurs when a statute is violated Once it has been established that a statute has been violated, no discretion is vested in the circuit court to refuse to grant the injunctive relief authorized by that statute”) (internal citations omitted); *see also Aims*, 2024 IL 129164, ¶¶ 22-25 (applying *Cryns* to ordinances); *Fitz-Mar*, 178 Ill. App. 3d at 560-61 (citing *People v. Van Tran Elec. Corp.*, 152 Ill. App. 3d 175, 184 (5th Dist. 1987)); *Mika Timber*, 221 Ill. App. 3d at 193.

8. The Illinois Supreme Court further clarified that the *Cryns* rule leaves “no discretion to balance the equities.” *Aims*, 2024 IL 129164, ¶ 26. The Court emphasized the distinction between injunctive relief “pursuant to a court’s inherent equitable authority” and “relief pursuant to statute.” *Id.*, ¶ 21. Specifically:

In the latter situation, the equities have, in effect, already been balanced by the legislative body, and that balance is reflected in the policy choices contained within the statute. A court is not free to disregard or “rebalance” the policy determinations made by a legislative body. *See, e.g., Roselle Police Pension Board v. Village of Roselle*, 232 Ill. 2d 546, 557 (2009). Accordingly, when a trial court is confronted “with a continuing violation of statutory law, it has no discretion or authority to balance the equities so as to permit that violation to continue.” Zygmunt J.B. Plater, *Statutory Violations and Equitable Discretion*, 70 Cal. L. Rev. 524, 527 (1982). . . .

Id.

9. As the Illinois Supreme Court recognized in *People v. NL Industries*,

The Illinois Constitution of 1970 provides that every citizen has a right to a healthful environment. (Ill. Const. 1970, art. XI, § 2.) Section 1 of article XI, in fact, declares it to be the public policy of the State to provide and maintain a healthful environment for the benefit of future generations. (Ill. Const. 1970, art. XI, § 1.) Prior to enactment of the Constitution of 1970, however, common law remedies were available to abate and enjoin public nuisances which caused pollution At the same time, in 1970, the Illinois General Assembly enacted the Illinois Environmental Protection Act (Ill.Rev.Stat.1989, ch. 111 1/2, par. 1001 *et seq.*). Repealing several statutes, including the sanitary water board act (Ill.Rev.Stat.1969, ch. 19, par. 145.1 *et seq.*) and the Illinois Air Pollution Control Act (Ill.Rev.Stat.1969, ch. 111 1/2, par. 240.1 *et seq.*), the Act established a

unified statewide program to restore, protect and enhance the quality of the environment in the State.

152 Ill. 2d 82, 90-91 (1992).

10. Home rule units, such as the City, have “the power to regulate for the protection of the public health, safety, morals and welfare[.]” Ill. Const. 1970, art. VII, § 6(a). Accordingly, there is a strong public interest in protecting the public health and the environment at both the State and the local level.

11. The Act, which was enacted for the protection of the environment and the preservation of public health, is “to be given extremely liberal construction for the accomplishment and maximization of [its] beneficial objectives.” *People v. Conrail Corp.*, 251 Ill. App. 3d 550, 560 (4th Dist. 1993); *see also* 415 ILCS 5/2(c) (“The terms and provisions of [the] Act shall be liberally construed so as to effectuate the purposes of [the] Act . . .”). The same is true for the Code Odor Provisions, which protect against “the potential risk of harm to the public health, safety, and welfare or to the environment from releases of air contaminants” (Code § 11-4-600) and prohibit “matter . . . of any kind whatever, which shall be dangerous or detrimental to health, . . . in connection with any business” (*id.* § 7-28-080).

12. The Complaint in this case is brought pursuant to Section 42(d) and (e) of the Act, 415 ILCS 5/42(d) and (e) (2024), the Code Odor Provisions, and the Code Injunctive Authority. The Act specifically allows for injunctive relief under Section 42(e) of the Act, 415 ILCS 5/42(e) (2024), providing the Attorney General with the power to “institute a civil action for an injunction, prohibitory or mandatory, to restrain violations of [the] Act, any rule or regulation adopted under [the] Act, any permit or term or condition of a permit . . . or to require such other actions as may be necessary to address violations of [the] Act, any rule or regulation adopted under [the] Act, [or] any permit or term or condition of a permit” 415 ILCS 5/42(e).

13. The Code allows the City to seek injunctive relief generally under Code Section 2-31-040(a)(15) and under Code Section 7-28-020 for violations of Code Section 7-28-080, and under Code Section 11-4-810(a) for violations of Code Section 11-4-730. Specifically, Code Sections 2-31-040(a)(15) and 7-28-020 provide as follows, respectively:

The Chief Sustainability Officer . . . shall have the . . . dut[y] and responsibility[y] [t]o institute necessary proceedings to prosecute violations of Chapter 11-4 and all other provisions of [the] Code which the Chief Sustainability Officer is expressly authorized to enforce, and otherwise to compel the prevention and abatement of the issuance of smoke or gases, solid or liquids or other matter causing air . . . pollution, and nuisances arising therefrom.

* * *

Whenever any nuisance under this Chapter 7-28 shall be found on any premises within the City, the . . . Chief Sustainability Officer . . . or the Corporation Counsel is hereby authorized, in his or her discretion, to seek to enjoin such nuisance . . . in such manner as he or she may direct pursuant to the applicable provisions of the Code.

14. The Code further provides civil penalties for violations of Section 11-4-730 “in addition to permanent or temporary injunctive relief that the City may seek in the Circuit Court of Cook County.” Code § 11-4-810.

15. While a TRO does not contain the word “injunction,” the Illinois Supreme Court has unequivocally stated that a “temporary restraining order is a type of injunction.” *Ardt v. Illinois Dep’t of Prof’l Regulation*, 154 Ill. 2d 138, 146 (1992); *see also People v. Keeven*, 68 Ill. App. 3d 91, 93-97 (5th Dist. 1979) (holding trial court erred in dissolving the previously issued TRO and in denying the State’s additional requested relief because injunctive relief is authorized under the Act and therefore the State need only show proof of a violation of the Act); *People ex rel. Hartigan v. Stianos*, 131 Ill. App. 3d 575, 576-82 (2d Dist. 1985) (holding trial court erred in dissolving previously issued TRO and requested injunctive relief because the relevant statute

allowed the State to seek to enjoin persons violating the statute and the State need only prove a violation of the statute to obtain the authorized injunctive relief).

16. Thus, each Plaintiff satisfies the first requirement for obtaining a TRO and a preliminary injunction pursuant to the standard provided by the Illinois Supreme Court in *Cryns*, 203 Ill. 2d at 277, and *Aims*, 2024 IL 129164, ¶¶ 20-22, 26, in that the Act and the Code provide for injunctive relief.

17. The relevant inquiry under Section 42(e) and the Code Injunctive Authority is whether the requested relief is required to restrain, or necessary to address, Defendant's violations alleged in Counts I, II, VII, and VIII of the Complaint.

18. As set forth in detail below, Plaintiffs also satisfy the second requirement for obtaining a TRO and preliminary injunction set forth in *Cryns*, 203 Ill. 2d at 277, and *Aims*, 2024 IL 129164, ¶¶ 20-22, 26, as Defendant has violated and continues to violate the Act, corresponding Board regulations, Special Condition 5 of the LOP 86050044 ("2016 Permit"), and the Code Odor Provisions. Accordingly, the requested injunctive relief below is required to restrain and address Defendant's violations alleged in Counts I, II, VII, and VIII of the Complaint.

B. The People are Entitled to a TRO and a Preliminary Injunction.

1. Relevant Factual Background Supporting the People's Request for a TRO and a Preliminary Injunction.

19. Defendant is a Delaware limited liability company, duly authorized to transact business in the State of Illinois. A true and correct copy of the relevant page from the Secretary of State's Office is attached hereto as Exhibit 2¹ ("Illinois Secretary of State Entity Information").

¹ Plaintiffs respectfully request the Court take judicial notice of the information from the Secretary of State's website. See *Bd. of Educ. of Richland Sch. Dist. No. 88A v. City of Crest Hill*, 2021 IL 126444 ¶ 5 (quoting *People v. Johnson*, 2021 IL 125738, ¶ 54) ("Illinois courts often take judicial notice of facts that are readily verifiable by referring to sources of indisputable accuracy' such as court records or public documents, including records on government website"); see also *Maldonado v. Creative Woodworking Concepts*, 296

At all times relevant to the Complaint, Defendant has owned and operated and continues to own and operate the Facility. Complaint, Count I, ¶¶ 2-3; Delgado Affidavit, ¶ 6.

20. As of the date of the filing of this Motion, the Facility is located in an area of Environmental Justice (“EJ”) concern as identified using Illinois EPA EJ Start. Complaint, Count I, ¶ 5; Delgado Affidavit, ¶ 9.

21. The Facility is located approximately 0.2 miles away from residences to the north, approximately 800 feet away from residences to the east, approximately 500 feet from residences to the west, approximately 0.5 miles away from Burnham Math & Science Academy to the west, approximately 0.3 miles away from John L. Marsh Elementary School to the northeast, and approximately 0.6 miles away from Sacred Heart Croatian parish facilities, which include a church and an early education, elementary, and middle school, to the northeast. Complaint, Count I, ¶ 6; Delgado Affidavit, ¶ 8.

22. No later than July 2016, Defendant began its operations at the Facility. Complaint, Count I, ¶ 7; *see* Delgado Affidavit, ¶ 12.

23. From approximately July 2016, through the date of the filing of this Motion, nearby residents (“Neighborhood Residents”) have complained of odors from the Facility. Complaint, Count I, ¶ 8; Affidavit of Michelle Berkley-Wright (“Berkley-Wright Affidavit”), attached hereto as Exhibit 3, ¶¶ 9-27; Affidavit of Patricia Carillo (“Carillo Affidavit”), attached hereto as Exhibit 4, ¶¶ 7, 10-11, 13-35; Affidavit of Anna Johnson (“Johnson Affidavit”), attached hereto as Exhibit 5, ¶¶ 4-23; Affidavit of Ljiljana Radocaj (“Radocaj Affidavit”), attached hereto as Exhibit 6, ¶¶ 9-34; Affidavit of Rafael Hernandez (“Hernandez Affidavit”), attached hereto as Exhibit 7, ¶¶ 5-17; Affidavit of Peggy Jo Salazar (“Salazar Affidavit”), attached hereto as Exhibit 8, ¶¶ 6-18.

Ill. App. 3d 935, 938 (3d Dist. 1998) (noting the court may take judicial notice of records from the Illinois Secretary of State’s Office).

24. The Neighborhood Residents have complained to Illinois EPA and to their alderperson's office. Complaint, Count I, ¶ 8; *see, e.g.*, Carrillo Affidavit, ¶¶ 32-33. Hundreds of complaints have also been filed with the City's 311 complaint system. Complaint, Count I, ¶ 8; *see, e.g.*, Radocaj Affidavit, ¶ 31; Carrillo Affidavit, ¶ 32; Hernandez Affidavit, ¶ 12. Neighborhood Residents' complaints include, but are not limited to, the following:

- a. Neighborhood Residents specifically complain of noisome organic odors emanating from the Facility, and describe the odors as a rotten egg smell, putrid, sulfur, a gas leak, feces, decaying animals, rotten fish, a dead body, and sickening ("Pullman Odors"). Hernandez Affidavit, ¶ 5; Carrillo Affidavit, ¶ 7; Berkley-Wright Affidavit, ¶ 9; Johnson Affidavit, ¶ 8; Salazar Affidavit, ¶ 6; Radocaj Affidavit, ¶ 11.
- b. Neighborhood Residents describe smelling the Pullman Odors on a regular basis, sometimes three to four times per week while Defendant has been operating. Carrillo Affidavit, ¶ 7; Berkley-Wright Affidavit, ¶ 9; Johnson Affidavit, ¶ 7; Radocaj Affidavit, ¶ 9; Salazar Affidavit, ¶ 8.
- c. Neighborhood Residents describe smelling the Pullman Odors throughout the neighborhood. Hernandez Affidavit, ¶ 10; Berkley-Wright Affidavit, ¶ 23; Carrillo Affidavit, ¶ 15; Johnson Affidavit, ¶ 7; Radocaj Affidavit, ¶ 12.
- d. Neighborhood Residents describe being unable to enjoy gardening, yardwork, and cooking outdoors, as well as the use of their pools, because of the Pullman Odors. Berkley-Wright Affidavit, ¶ 21-22; Carrillo Affidavit, ¶ 23; Johnson Affidavit, ¶ 15; Radocaj Affidavit, ¶¶ 19-20; Hernandez Affidavit, ¶ 14.

- e. Neighborhood Residents describe smelling the Pullman Odors inside their homes, especially while their heating and air conditioning units were in use. *See, e.g.*, Johnson Affidavit, ¶¶ 12, 14. One Neighborhood Resident described burning incense throughout their home and wearing a mask while sleeping at night to try to alleviate the Pullman Odors. *Id.*, ¶¶ 11, 13.
- f. Neighborhood Residents describe smelling the Pullman Odors immediately after opening the door to their home. Hernandez Affidavit, ¶¶ 7, 15; Berkley-Wright Affidavit, ¶ 12; Carrillo Affidavit, ¶¶ 17, 35; Johnson Affidavit, ¶ 22.
- g. Neighborhood Residents describe being unable to open their windows because of the Pullman Odors. Hernandez Affidavit, ¶ 15; Berkley-Wright Affidavit, ¶¶ 13, 15, 27; Carrillo Affidavit, ¶¶ 16-18, 29, 34-35; Johnson Affidavit, ¶¶ 11, 16; Radocaj Affidavit, ¶¶ 17-18; Salazar Affidavit, ¶ 12.
- h. Neighborhood Residents describe the Pullman Odors affecting students at the nearby Sacred Heart School. *See, e.g.*, Radocaj Affidavit, ¶¶ 24-25, 29. One Neighborhood Resident describes smelling the odors while at the school for the annual children's picnic and observed children who were outside running inside. *Id.*, ¶ 25. The same Neighborhood Resident describes smelling the odors at an all-school picnic and having to move the children inside to escape the smell. *Id.*, ¶ 24.
- i. Neighborhood Residents describe not being able to take their children or great-grandchildren to public parks because of the Pullman Odors. *See, e.g.*, Salazar Affidavit, ¶ 15; Radocaj Affidavit, ¶ 13.

- j. Neighborhood Residents describe smelling the Pullman Odors after a funeral at the nearby Sacred Heart Croatian Parish, at the Sacred Heart School's science fair, at a christening, and that while putting up decorations for a wedding, residents had to hold their breath, and some stopped helping and went inside. *See e.g.*, Radocaj Affidavit, ¶¶ 27-30.
- k. Neighborhood Residents describe experiencing headaches and nasal pain because of the Pullman Odors. Johnson Affidavit, ¶ 10; Radocaj Affidavit, ¶ 23.
- l. Neighborhood Residents describe experiencing discomfort breathing because of the Pullman Odors. Carrillo Affidavit, ¶¶ 19, 35; Radocaj Affidavit, ¶ 23.
- m. Neighborhood Residents describe covering their faces and noses with clothing when walking from their car to their home to avoid the Pullman Odors. Johnson Affidavit, ¶ 20; Berkley-Wright, ¶ 17.
- n. Neighborhood Residents describe being embarrassed to invite guests over to their homes because of the Pullman Odors. Berkley-Wright Affidavit, ¶¶ 22, 27; Carrillo Affidavit, ¶ 35; Johnson Affidavit, ¶ 15; Hernandez Affidavit, ¶ 16.
- o. Neighborhood Residents describe feeling isolated in their homes because of the Pullman Odors. Hernandez Affidavit, ¶ 16; Carrillo Affidavit, ¶ 35.
- p. Neighborhood Residents describe the Pullman Odors negatively affecting their quality of life. Berkley-Wright Affidavit, ¶ 27; Carrillo Affidavit, ¶ 35;

Johnson Affidavit, ¶ 23; Radocaj Affidavit, ¶ 34; Salazar Affidavit, ¶ 18; Hernandez Affidavit, ¶ 17.

25. At all times relevant to this Motion, Neighborhood Residents have complained and continue to complain of the Pullman Odors emanating from the Facility's operations that have and continue to unreasonably impact their lives and enjoyment of their homes and properties. Complaint, Count I, ¶ 9; *see also supra* ¶¶ 23-24.

26. According to a former employee who worked at the Facility from approximately June 2025 through September 2025, the entire time he worked at the Facility, he experienced a strong odor coming from the Facility and the materials used in the Facility's operations. Affidavit for Juan Nevarez ("Nevarez Affidavit"), attached hereto as Exhibit 9, ¶¶ 2, 4. Mr. Nevarez describes the odor as intense and similar to mold or mildew. *Id.*, ¶ 5.

27. Mr. Navarez attests that the odor was so strong, it penetrated barriers, such as his car, and stuck to his clothing and skin. *Id.*, ¶ 6. For this reason, after working a shift at the Facility, he showered and changed before leaving the Facility and kept his work clothes separate from his other clothes and washed his work clothes immediately. *Id.* However, recently he found clothes he wore to work at the Facility inside of two securely knotted garbage bags, and when he opened the bag, the clothes "smelled like death." *Id.*, ¶ 7. Mr. Navarez had to throw out the clothing. *Id.*

28. When Mr. Navarez worked at the Facility, an acid and water solution was normally added to the shipments of oil that arrived to dilute and thin the oil, which contributed to the foul odor smell. *Id.*, ¶ 10. The oil, acid, and water solution was often heated to make the mixture thinner to allow it to flow through hoses and be unloaded, which frequently caused small explosions or ruptures due to the pressure built up in the transport containers and failure to properly monitor and vent them. *Id.*, ¶¶ 10-11. As such, the combination of water, oil, and acid

would spill out of the containers. *Id.*, ¶ 11. The hoses used to unload the material would also frequently disconnect from the transport containers, and the oil, acid, and water combination would spill on the ground of the Facility. *Id.* When this happened, Mr. Navarez was instructed to sweep the material into the drains at the Facility, which also had a terrible and very strong odor similar to the combined oil, acid, and water solution. *Id.*, ¶12. Because of this, the drains sometimes became clogged, and Mr. Navarez had to clean the drains. *Id.* However, the drains were impossible to clean because of the amount and type of material. *Id.* Mr. Navarez attests the smell was horrible. *Id.*

29. During the time period Mr. Navarez worked at the Facility, the Facility operated “constantly, with different aspects of the product unloading process occurring at various times and on no set schedule from day-to-day.” *Id.*, ¶ 14. To Mr. Navarez’s knowledge, operations never stopped or paused while he worked at the Facility. *Id.*

30. On February 13, 2025, Illinois EPA inspector Delgado conducted an inspection of the Facility (“February 2025 Inspection”). Complaint, Count I, ¶ 11; Delgado Affidavit, ¶ 5. At the time of the inspection, wind was blowing from west to east and the Pullman Odors were present at three locations as follows:

- a. first, in a residential area approximately 0.25 miles east of the Facility at 10:15 a.m.;
- b. second, in a residential area approximately 0.2 miles east of the Facility at 10:17 a.m. southwest of the first observed odors; and
- c. third, in a residential area approximately 0.2 miles east of the Facility at 10:19 a.m. south of the second observed odors.

Complaint, Count I, ¶ 11; Delgado Affidavit, ¶ 14.

31. During the February 2025 Inspection, odors of the same nature as those observed in the residential areas east of the Facility were observed both inside and outside the buildings at the Facility. Complaint, Count I, ¶ 12; Delgado Affidavit, ¶ 15.

32. During the February 2025 Inspection, Illinois EPA inspector Delgado observed extremely strong odors both inside and outside the buildings at the Facility, which, at times, made it difficult for him to breathe. Complaint, Count I, ¶ 13; Delgado Affidavit, ¶ 15.

33. After the February 2025 Inspection, Illinois EPA inspector Delgado was forced to drive his vehicle with the windows down due to the odor that was permeating his clothes. Delgado Affidavit, ¶ 16. When Mr. Delgado got back to his office, he was embarrassed to be around his colleagues because his clothes still emanated an odor from the inspection. *Id.* As a result, Mr. Delgado borrowed an office fan from one of his co-workers to try to air out his coat and the general area, which had little effect. *Id.* On his way home that night, he again drove with the windows down in the cold weather in an attempt to further air out his car and clothing. *Id.* When Mr. Delgado got home, he took off his clothes and placed them in a garbage bag to be washed at a later time, and he immediately took a shower. *Id.*

34. On August 26, 2026, Illinois EPA inspector Delgado conducted off-site observations of the Facility in both the morning and afternoon (“August 2026 Inspection”). Delgado Affidavit, ¶ 17. At the time of the inspection in the morning, wind was blowing from southwest to northeast, and the Pullman Odors were present at nine locations as follows:

- a. at the entrance to the Facility on E. 100th St. at 9:45 a.m.;
- b. in a residential area approximately 0.15 miles east of the Facility at 9:50 a.m.;

- c. in a residential area approximately 0.23 miles east of the Facility at 9:55 a.m., east of the observed odors in paragraph 34.b;
- d. in a residential area approximately 0.22 miles east of the Facility at 10:00 a.m. directly south of the observed odors in paragraph 34.c;
- e. in a residential area approximately 0.32 miles northeast of the Facility at 10:03 a.m. northeast of the odors observed in paragraph 34.d;
- f. in a residential area approximately 0.38 miles northeast of the Facility at 10:05 a.m. directly north of the odors observed in paragraph 34.e;
- g. in a residential area approximately 0.42 miles northeast of the Facility at 10:10 a.m. directly north of the odors observed in paragraph 34.f;
- h. in a residential area approximately 0.51 miles northeast of the Facility at 10:15 a.m. directly north of the odors observed in paragraph 34.g; and
- i. in a residential area approximately 0.4 miles northeast of the Facility at 10:26 a.m. southeast of the odors observed in paragraph 34.h.

Delgado Affidavit, ¶ 17.

35. At the time of the inspection in the afternoon, wind was blowing from west to east, and the Pullman Odors were present at eleven locations as follows:

- a. in a residential area approximately 0.19 miles east of the Facility at 12:37 p.m.;
- b. in a residential area approximately 0.18 miles east of the Facility at 12:38 p.m. directly north of the odors observed in paragraph 35.a;
- c. in a residential area approximately 0.29 miles east of the Facility at 12:40 p.m. directly east of the odors observed in paragraph 35.b;

- d. in a residential area approximately 0.23 miles east of the Facility at 12:42 p.m. northwest of the odors observed in paragraph 35.c;
- e. in a residential area approximately 0.22 miles east of the Facility at 12:43 p.m. directly south of the odors observed in paragraph 35.d;
- f. in a residential area approximately 0.38 miles east of the Facility at 12:45 p.m. east of the odors observed in paragraph 35.e;
- g. in a residential area approximately 0.15 miles east of the Facility at 1:00 p.m. northwest of the odors observed in paragraph 35.f;
- h. in a residential area approximately 0.27 miles east of the Facility at 1:05 p.m. southeast of the odors observed in paragraph 35.g;
- i. in a residential area approximately 0.28 miles east of the Facility at 1:06 p.m. northeast of the odors observed in paragraph 35.h;
- j. in a residential area approximately 0.29 miles east of the Facility at 1:08 p.m. directly north of the odors observed in paragraph 35.i; and
- k. in a residential area approximately 0.42 miles east of the Facility at 1:15 p.m. directly east of the odors observed in paragraph 35.j.

Id., ¶ 18.

36. Illinois EPA inspector Delgado described the odors he smelled as rotten garbage and vomit, and that the odors were pungent, vile, and extremely unpleasant. *Id.*, ¶ 19.

2. Defendant Has Caused, Threatened, or Allowed the Discharge of the Pullman Odors from the Facility so as to Unreasonably Interfere with the Neighborhood Residents' Enjoyment of Their Lives or Properties, and Therefore Caused or Tended to Cause Air Pollution, as Alleged in Count I of the Complaint.

37. Section 9(a) of the Act, 415 ILCS 5/9(a) (2024), 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.

38. Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141, provides as follows:

Prohibition of Air Pollution

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.

39. Section 3.315 of the Act, 415 ILCS 5/3.315 (2024), provides as follows:

“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.

40. Defendant, a limited liability company, is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2024). Complaint, Count I, ¶ 18; Ex. 2, Secretary of State Entity Information at 1.

41. The Pullman Odors emanating from the Facility are a “contaminant” as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2024). Complaint, Count I, ¶ 20. A “contaminant” is broadly defined as “any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.” *E.O.R. Energy, LLC v. Pollution Control Board*, 2015 IL App (4th) 130443, ¶ 74 (citing 415 ILCS 5/3.165). The Pullman Odors are an “odor” and therefore a contaminant.

42. Section 3.115 of the Act, 415 ILCS 5/3.115 (2024), provides as follows:

“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.

43. From at least July 2016, through the date of the filing of this Motion, as alleged in paragraphs 8 and 9 of Count I of the Complaint, the Pullman Odors emanating from the Facility, either alone or in combination with contaminants from other sources, have caused Neighborhood Residents (a) headaches and nasal pain, (b), breathing discomfort, (c) to avoid outdoor activities such as gardening and cookouts, (d) to avoid inviting guests over to their homes, (e) to avoid opening their windows, and (f) to avoid using public parks, and have thereby unreasonably interfered with Neighboring Residents’ enjoyment of their lives and their properties and is therefore “air pollution” as that term is defined in Section 3.115 of the Act, 415 ILCS 5/3.115 (2024). Complaint, Count I, ¶ 22; *see supra* ¶¶ 23-25.

44. By causing, threatening, or allowing the discharge of contaminants, the Pullman Odors, into the environment so as to unreasonably interfere with the Neighborhood Residents’ enjoyment of their lives or properties, Defendant has caused or tended to cause air pollution, and thereby violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2024), and Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141. Complaint, Count I, ¶ 23; *see supra* ¶¶ 23-25. As such, the People are entitled to a TRO and a preliminary injunction as to Count I of the Complaint pursuant to Section 42(e) of the Act, 415 ILCS 5/42(e) (2024).

3. Defendant Operated and Continues to Operate its Emissions Units in a Manner Resulting in an Odor Nuisance and Has Failed to Eliminate Such Odor Nuisance as Alleged in Count II of the Complaint.

45. The Facility consists of multiple buildings, where Defendant performs soapstock acidulation, a process that converts a by-product of commercial edible oil into commercial animal feed ingredients. Complaint, Count I, ¶ 4; Delgado Affidavit, ¶ 6.

46. On January 2, 2015, Illinois EPA issued Lifetime Operating Permit (“LOP”) 86050044 to the Facility’s prior owner and/or operator, Agri-Fine, Inc. Complaint, Count II, ¶ 20; Delgado Affidavit, ¶ 11.

47. On July 27, 2016, Illinois EPA issued the 2016 Permit with a change of name and ownership to Defendant after Defendant bought the Facility. Complaint, Count II, ¶ 22; Delgado Affidavit, ¶ 12.

48. According to the 2016 Permit, Defendant was permitted to operate the following equipment at the Facility: twenty-four 15,000-gallon process reactors controlled by two caustic scrubbers; two sulfuric acid tanks also controlled by the two caustic scrubbers; and two 11.9 million British Thermal Units per hour (“mmBtu/hr”) natural gas fired steam generators. Complaint, Count II, ¶ 23; Delgado Affidavit, ¶ 13.

49. The Facility’s operations are capable of emitting odors, specifically the Pullman Odors, particulate matter (“PM”), carbon monoxide (“CO”), carbon dioxide (“CO₂”), hydrogen sulfide (“H₂S”), sulfuric acid (“H₂SO₄”), sulfur dioxide (“SO₂”), methane (“CH₄”), volatile organic material (“VOM”), ammonia (“NH₃”), nitrous oxide (“N₂O”), and nitrogen oxides (“NO_x”). Complaint, Count II, ¶ 25; Delgado Affidavit, ¶ 10.

50. Section 9(b) of the Act, 415 ILCS 5/9(b) (2024), 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, (1) without a permit granted by the Agency unless otherwise exempt by this Act or Board regulations or (2) in violation of any conditions imposed by such permit.

51. Section 211.1950 of the Board 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.

52. Section 211.6370 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.6370, provides the following definition:

“Stationary source” means any building, structure, facility or installation that emits or may emit any air pollutant.

53. Section 211.370 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.370, provides the following definition:

“Air pollutant” means an air pollution agent or combination of such agents, including any physical, chemical, biological, radioactive (including source material, special nuclear material, and byproduct material) substance or matter which is emitted into or otherwise enters the atmosphere. Such term includes any precursors to the formation of any air pollutant, to the extent that the relevant statute or rule has identified such precursor or precursors for particular purpose for which the term “air pollutant” is used.

54. The Facility, which consists of multiple buildings, is a building, structure, and/or facility where Defendant performs soapstock acidulation and operates twenty-four 15,000-gallon process reactors controlled by two caustic scrubbers, two sulfuric acid tanks also controlled by the two caustic scrubbers, and two 11.9 mmBtu/hr natural gas fired steam generators, each an “emission unit,” capable of emitting odors, specifically the Pullman Odors, PM, CO, CO₂, H₂S, H₂SO₄, SO₂, CH₄, VOM, NH₃, N₂O, and NO_x, which are each an “air pollutant,” and the Facility

is therefore a “stationary source” as those terms are defined in Sections 211.1950, 211.370, and 211.6370 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.1950, 211.370, and 211.6370, respectively. *See* Complaint, Count I, ¶ 1, Count II, ¶¶ 23-30; Delgado Affidavit, ¶¶ 6, 10, and 13.

55. Section 211.6130 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.6130, provides, in pertinent part, the following definition:

“Source” means any stationary source (or any group of stationary sources) that are located on one or more contiguous or adjacent properties that are under common control of the same person (or persons under common control) and that belongs to a single major industrial grouping

56. The Facility, a stationary source, is located on one property under Defendant’s control and belongs to a single major industrial grouping, Major Group 20 – Food and Kindred Products, Standard Industrial Classification (“SIC”) Code 2079, and is therefore a “source” as that term is defined in Section 211.6130 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.6130. Complaint, Count II, ¶ 32; Delgado Affidavit, ¶ 7.

57. Special Condition 5 of the 2016 Permit provides as follows:

In the event that the operations of the emission unit(s) result in an odor nuisance, the Permittee shall take appropriate and necessary actions to minimize odors, including but not limited to, changes in material or installation of controls, in order to eliminate the odor nuisance.

58. From at least July 2016, through the date of the filing of this Motion, as alleged in paragraphs 8 and 9 of Count I of the Complaint, the Pullman Odors have caused Neighborhood Residents (a) headaches and nasal pain, (b), breathing discomfort, (c) to avoid outdoor activities such as gardening and cookouts, (d) to avoid inviting guests over to their homes, (e) to avoid opening their windows, and (f) to avoid using public parks, and unreasonably interfered with nearby residents’ enjoyment of their lives and their properties and is therefore “air pollution” as

that term is defined in Section 3.115 of the Act, 415 ILCS 5/3.115 (2024). Complaint, Count II, ¶ 34; *see supra* ¶¶ 23-25.

59. By causing or allowing “air pollution” as detailed in paragraph 58 above, Defendant thereby operated its twenty-four 15,000-gallon process reactors controlled by two caustic scrubbers, two sulfuric acid tanks also controlled by the two caustic scrubbers, and two 11.9 mmBtu/hr natural gas fired steam generators in a manner resulting in an odor nuisance and has failed to take appropriate and necessary actions to eliminate such odor nuisance in violation of Special Condition 5 of the 2016 Permit. Complaint, Count II, ¶ 34; *see supra* ¶¶ 23-25; *see also supra* ¶¶ 26-36.

60. By operating its Emissions Units in a manner resulting in an odor nuisance and failing to take appropriate and necessary actions to eliminate such odor nuisance in violation of Special Condition 5 of the 2016 Permit, Defendant thereby violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2024). As such, the People are entitled to a TRO and a preliminary injunction as to Count II of the Complaint pursuant to Section 42(e) of the Act, 415 ILCS 5/42(e) (2024).

C. The City Is Entitled to a TRO and Preliminary Injunction.

1. Defendant Has Operated and Operates the Facility in a Manner Resulting in Air Pollution Under the City Code and Is Required to Eliminate Such Air Pollution as Alleged in Count VII of the Complaint.

61. Code Section 11-4-730 provides that “[i]t shall be unlawful within the City of Chicago for any person to cause, suffer or allow the emission of air pollution; provided, however, emissions in compliance with state or federal law or regulations shall not constitute air pollution.”

62. Code Section 11-4-120 defines “person” as follows:

“Person” means any individual natural person, trustee, court-appointed representative, syndicate, association, partnership, firm, club, company, corporation, business trust, institution, agency, government corporation, municipal corporation, city, county, municipality, district or other political

subdivision, department, bureau, agency or instrumentality of federal, state or local government, contractor, supplier, vendor, installer, operator, user or owner, or any officers, agents, employees, factors, or any kind of representatives of any thereof, in any capacity, acting either for himself, or for any other person, under either personal appointment or pursuant to law, or other entity recognized by law as the subject of rights and duties. The masculine, feminine, singular or plural is included in any circumstances.

63. Code Section 11-4-610 “air pollution” as follows:

“Air pollution” means the presence in the outdoor atmosphere of any air contaminants that (1) endanger the health, safety or welfare of the public; (2) cause or may cause injury, detriment, nuisance or annoyance to the public or damage to business or property; or (3) leave the premises on which they originated so as to interfere with the reasonable and comfortable use and enjoyment of property.

64. Code Section 11-4-610 defines “air contaminant,” as follows:

“Air contaminant” means any individual substance or matter, including but not limited to smoke, soot, fly ash, dust, cinders, dirt, acids, fumes, oxides, gases, vapors, odors, toxic or radioactive substances, volatile organic compounds, ozone, waste, particulate, solid, liquid or gaseous matter, or any other material, which is a component of or precursor to air pollution.

65. At all times relevant to the Counts brought by the City, Defendant has been a “person” as that term is used in Code Section 11-4-730, and as defined in Code Section 11-4-120, because it has been a company.

66. The City incorporates and re-alleges the facts of which it asks the Court to take judicial notice and the verified facts stated in Paragraphs 19-22 of this Motion.

67. On May 5, 6, 13 and 14, June 8 and 29, July 20, and August 5, 6, and 31, 2026, Tracy Ricker, a City Environmental Engineer, conducted inspections of areas near the Facility, including canvassing for odors on the public way on all sides of the Facility and in residential areas. Environmental Engineer Ricker verifies the facts of her inspections on these dates in her affidavit. Affidavit of Tracy Ricker (“Ricker Affidavit”), attached hereto as Exhibit 10, ¶¶ 7-16.

68. During these inspections, Ms. Ricker smelled a strong, foul odor near residences southeast of the Facility at E. 103rd St. and S. Muskegon Ave., west of the Facility at the corner of E. 100th St. and S. Torrence Ave., between the residential streets at E. 101st St. and E. 102nd St., at S. Torrence Ave. south of E. 101st St., and in the residential neighborhood near the intersection of E. 102nd St. and S. Hoxie Ave.; northwest of the Facility, on E. 100th St. and S. Torrence Ave.; immediately north of the Facility on E. 100th St.; and further north of the Facility on E. 99th and E. 98th Streets, in the residential area south of Veterans' Memorial Park. *Id.*, ¶¶ 6-13. The odor she smelled during those inspections of the community in the vicinity of the Facility was so strong and offensive that it made breathing difficult, including because she had to intermittently hold her breath to avoid breathing in the odor and took shallow breaths for the same reason. The odor also made her gag. *Id.* She had previously smelled the same odor from and at the Facility during at least 20 previous odor inspections relating to the Facility, including approximately four inspections inside the Facility, over the course of about three years. *Id.*, ¶ 9. Environmental Engineer Ricker recognized this odor as a distinct odor that she had never smelled anywhere other than from and at the Facility. *Id.*, ¶¶ 6-13.

69. In addition, during her inspection on June 8, 2026, Ms. Ricker went inside the Facility and observed that the odor was also present inside the Facility. *Id.*, ¶ 9. She spoke to Defendant's Facility Manager who, in response to Ms. Ricker's comments to him about the strong odor, did not deny that the odor came from the Facility. *Id.*, ¶ 9.

70. On May 18, 27, and 28, June 1 and 16, July 8, 13, 28, and 31, and August 17, 18, 19, and 21, 2026, Kendra Graham, a City Environmental Engineer, conducted inspections of areas near the Facility, including canvassing for odors on the public way and in nearby residential areas.

Ms. Graham verifies the facts of her inspections on these dates in her affidavit. Affidavit of Kendra Graham (“Graham Affidavit”), attached hereto as Exhibit 11, ¶¶ 7-20.

71. During these inspections, Ms. Graham observed a foul odor on the entire public way along E. 100th St. from S. Torrence Ave. to S. Muskegon Ave. (on the northern boundary of the Facility), on the public way near the north entrance to the Facility, at E. 103rd St. and S. Torrence Ave., at E. 105th St. and S. Torrence Ave. (on the border of a residential neighborhood), at E. 103rd St. and S. Torrence Ave. (on the border of a residential neighborhood), in the residential area on the 9800 block of S. Manistee Ave., in the residential area in the 9700 block of S. Escanaba Ave., at 10115 S. Torrence Avenue, the intersection of S. Torrence Ave. and E. 100th St., in the residential area of E. 103rd St. and S. Hoxie Ave., at S. Torrence Ave and E. 102nd St., at E. 100th St. and S. Escanaba Ave. (near a residential area), in the residential area near S. Torrence Ave. and E. 102nd St., and at E. 100th St. and S. Exchange Ave. *Id.*, ¶¶ 7-20. The odor was so strong and foul that it nauseated her. *Id.* She has smelled the same distinct odor from and at the Facility during her approximately twenty inspections relating to the Facility. *Id.*, ¶¶ 5, 7-20.

72. In addition, on June 16 and July 8, 2026, Ms. Graham entered the Facility and spoke to the Facility Manager, Mr. Peter Rnich. *Id.*, ¶¶ 12-13. Ms. Graham observed the same odor within the Facility that she had observed outside the Facility. *Id.*, ¶¶ 12-13. Mr. Rnich did not deny that the Facility generated foul odors, even from storage tanks when the Facility was not actively processing oil. *Id.*

73. On June 4, 23, and 25, July 14, and August 13, 24, 27 and 28, 2026, Kenneth Scott, a City Environmental Engineer, conducted inspections of areas near the Facility, including canvassing for odors on the public way and in residential neighborhoods. Mr. Scott verifies the

facts of his inspections on these dates in his affidavit. Affidavit of Kenneth Scott (“Scott Affidavit”), attached hereto as Exhibit 12, ¶¶ 7-15.

74. On these inspection dates, Mr. Scott observed a rotten egg, sulfur odor at E. 99th St. and S. Torrence Ave. and continuing along the northern boundary and entrance to the Facility on E. 100th St. from S. Torrence Ave. to S. Escanaba Ave., along E. 99th St. from S. Escanaba Ave. west to S. Marquette Ave., along S. Torrence Ave. from E. 103rd St. to E. 104th St. (in an area with single-family homes), in the residential area along S. Escanaba Ave. between E. 101st St. and E. 102nd St., in the residential area along E. 101st St. between S. Torrence Ave. and S. Hoxie Ave., in the residential directly north of the Facility on E. 99th St., towards S. Marquette Ave., on S. Torrence Ave. between E. 102nd St. and E. 101st St., at E. 104th St. and S. Manistee Ave., and on the E.102nd St. block of S. Yates Ave. *Id.* During several inspections, the odor caused his nostrils to burn, gave him an acute headache, or caused nausea. The odor that he smelled during these inspections was the same odor that he previously smelled from and at the Facility during approximately 160 odor inspections in the area of the Facility. *Id.*

75. Starting no later than May 5, 2026, and occurring repeatedly thereafter, Defendant has caused, suffered, or allowed emissions of air pollution in the form of a strong, foul odor from Defendant’s operations, smelled in nearby residential areas and public ways, and Defendant is continuing to do so. The odor is so strong and offensive that it causes people to have difficulty breathing, to gag, to become nauseated, to get headaches, and other physical reactions. Ricker Affidavit, ¶¶ 7-16; Graham Affidavit, ¶¶ 7-20; Scott Affidavit, ¶¶ 7-15.

76. It is unlawful within the City of Chicago for any person to cause, suffer or allow the emission of air pollution; provided, however, emissions in compliance with state or federal law or regulations shall not constitute air pollution. Code § 11-4-730. Starting no later than May

5, 2026, and occurring repeatedly thereafter, the foul and repulsive odor emissions from Defendant's operations constituted and will continue to constitute "air pollution," as that term is defined in the Code, *i.e.*, "the presence in the outdoor atmosphere of any air contaminants that (1) endanger the health, safety or welfare of the public; (2) cause or may cause injury, detriment, nuisance or annoyance to the public or damage to business or property; or (3) leave the premises on which they originated so as to interfere with the reasonable and comfortable use and enjoyment of property." *See* Code § 11-4-610.

77. Defendant's odor emissions endangered the health, safety, or welfare of the public as evidenced by City inspectors feeling nauseated, wanting to gag, having difficulty breathing, having a headache, or having burning nostrils on the public way, and in residential neighborhoods due to Defendant's odor emissions. *See, e.g.*, Ricker Affidavit, ¶¶ 7-16; Graham Affidavit, ¶¶ 7-20; Scott Affidavit, ¶¶ 7, 11, 13-15. Defendant's odor emissions caused and may continue to cause injury, detriment, nuisance or annoyance to the public as evidenced by the strong and offensive nature of Defendant's odor emissions present on the public way and in residential neighborhoods. *See, e.g.*, Ricker Affidavit, ¶¶ 7-16; Graham Affidavit, ¶¶ 7-20; Scott Affidavit, ¶¶ 7-15. Defendant's odor emissions left the premises on which they originated so as to interfere with the reasonable and comfortable use and enjoyment of property as evidenced by City inspectors smelling the offensive odor that migrated from the Facility to residential neighborhoods. *See, e.g.*, Ricker Affidavit, ¶¶ 7-16; Graham Affidavit, ¶¶ 7-20; Scott Affidavit, ¶¶ 7-15.

78. By operating the Facility in a manner resulting in air pollution under the Code, Defendant thereby violated Code Section 11-4-730. As such, the City is entitled to a TRO and a preliminary injunction as to Count VII of the Complaint pursuant to the Code Injunctive Authority.

2. Defendant Has Operated and Operates the Facility in a Manner Resulting in an Odor Nuisance Under the City Code and Is Required to Eliminate Such Odor Nuisance as Alleged in Count VIII of the Complaint.

79. Code Section 7-28-080 provides, in pertinent part for this Motion, that:

No substance, matter, or thing of any kind whatever, which shall be dangerous or detrimental to health, shall be allowed to exist in connection with any business, or be used therein, or be used in any work or labor performed in the city, and no nuisance shall be permitted to exist in connection with any business or in connection with any such work or labor.

80. Code Section 1-4-090(e), which defines the term “person” in Code Section 7-28-080, provides as follows:

“Person” means any natural individual, firm, trust, partnership, association, joint venture, corporation or other legal entity, in his or its own capacity or as administrator, conservator, guardian, executor, trustee, receiver or other representative appointed by the court. Whenever the word “person” is used in any section of this code prescribing a penalty, fine, or cost recovery action as applied to partnerships, associations or joint ventures, the word shall include the members thereof, and as applied to corporations shall include the officers, agents or employees thereof who intentionally, recklessly or negligently cause or allow any violation of the section[.]

81. At all relevant times to this Count brought by the City, Defendant has been and is a “person” as that term is used in Code Section 7-28-080 and as that term is defined in Code Section 1-4-090, because it is a legal entity.

82. The repulsive and nauseating odor from the Facility has been and is a “substance, matter, or thing of any kind whatever” under Code Section 7-28-080.

83. As set forth in paragraphs 67 through 75 above, starting no later than May 5, 2026, and occurring repeatedly thereafter, the foul and repulsive odor from the Facility has been dangerous or detrimental to the health of the people of the City, as evidenced by the City Environmental Engineers’ physical reaction to the odor, including causing them to have difficulty

breathing, to gag, to become nauseated, to have burning nostrils, or to have a headache. *See, e.g.*, Ricker Affidavit, ¶¶ 7-16; Graham Affidavit, ¶¶ 7-20; Scott Affidavit, ¶¶ 7, 11, 13-15.

84. By operating the Facility in a manner resulting in an odor nuisance under the Code, Defendant thereby violated Code Section 7-28-080. As such, the City is entitled to a TRO and a preliminary injunction as to Count VIII of the Complaint pursuant to the Code Injunctive Authority.

III. REQUESTED RELIEF

1. As described above, Plaintiffs are entitled to a TRO and a preliminary injunction, because they plainly established that (1) Defendant violated and continues to violate provisions of the Act, corresponding Board regulations, Special Condition 5 of the 2016 Permit, and the Code Odor Provisions; and (2) Section 42(e) of the Act, 415 ILCS 5/42(e) (2024), and the Code Injunctive Authority specifically provide authority for this Court to grant injunctive relief.

2. A TRO “is intended to maintain the status quo.” *Harper v. Mo. Pac. R.R. Co.*, 264 Ill. App. 3d 238, 243 (5th Dist. 1994). “The goal of avoiding protracted litigation is achieved by the use of a TRO, which is inherently brief due to expiration by its own terms, cessation by law, or supersedence by an order entered in the proceeding for a preliminary injunction.” *Bradford v. Wynstone Prop. Owners’ Ass’n*, 355 Ill. App. 3d 736, 740 (2d Dist. 2005).

3. The purpose of preliminary injunctive relief is “to preserve the status quo or that state of affairs legally existing just prior to the motion for preliminary injunction.” *Harper*, 264 Ill. App. 3d at 249 (citing *Rotary Club of Chi. v. Harry F. Shea & Co.*, 120 Ill. App. 3d 988, 990 (1st Dist. 1983)). “The status quo is defined as ‘the last peaceable uncontested status which preceded the pending controversy.’” *Steel City Bank v. Vill. of Orland Hills*, 224 Ill. App. 3d 412, 417 (1st Dist. 1991) (citation omitted).

4. The last peaceable state is that state before violations of the law existed. *Gavrilos*, 359 Ill. App. 3d at 638. Where the acts sought to be enjoined violate a law, the status quo to be preserved can never be a situation where the enjoined party would be permitted to continue those acts that constituted the violation. *Id.*; *Kalbfleisch ex rel. Kalbfleisch v. Columbia Cmty. Unit Sch. No. 4*, 396 Ill. App. 3d 1105, 1119 (5th Dist. 2009) (“A probable violation of law should never be the status quo.”); *see also Schnepfer v. American Information Technologies, Inc.*, 136 Ill. App. 3d 678, 680 (1st Dist. 1985) (“[I]f the defendant does any act which the complaint seeks to enjoin, he acts at his peril and is subject to the power of the court to compel a restoration of the *status quo ante* or to grant such other relief as may be proper under the particular circumstances of the case.”).

5. Furthermore, “[t]he function of a preliminary injunction is not merely to contain ongoing damage but to prevent prospective damage.” *Gavrilos*, 359 Ill. App. 3d at 638.

6. The “state of affairs” at the Facility ceased to be legal on the first day that there were violations of the Act, Board regulations, Special Condition 5 of the 2016 Permit, or the Code Odor Provisions. As established in detail above, Illinois EPA documented violations of the Act, Board regulations, and permit provisions in February 2025 and August 2026, and the City’s Environmental Engineers documented violations of the Code Odor Provisions starting in May 2026. The Neighborhood Residents have complained and continue to complain of the Pullman Odors emanating from the Facility’s operations that have unreasonably impacted and continue to unreasonably impact their lives and enjoyment of their homes and property since approximately 2016. Any violation of the Act and the Code Odor Provisions is presumed to cause environmental harm. *See Fitz-Mar*, 178 Ill. App. 3d at 561. Accordingly, the People and the City are entitled to a TRO and a preliminary injunction to, at a minimum, restrain Defendant from conducting any operations at its Facility that result in the emission of the Pullman Odors and the odors observed

by Illinois EPA and the City's Environmental Engineers from the Facility into the surrounding neighborhoods in violation of Sections 9(a) and (b) of the Act, 415 ILCS 5/9(a) and (b), Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141, Special Condition 5 of the 2016 Permit, and Code Sections 11-4-730 and 7-28-080.

WHEREFORE, Plaintiffs, PEOPLE OF THE STATE OF ILLINOIS and the CITY OF CHICAGO, respectfully request that this Court hold an immediate hearing on the TRO and later the preliminary injunction request, and enter an order providing the following relief, respectively:

A. TRO RELIEF.

1. Order Defendant to immediately be restrained from conducting any operations at its Facility that result in the emission of the Pullman Odors emanating from the Facility into the surrounding neighborhoods in violation of Sections 9(a) and (b) of the Act, 415 ILCS 5/9(a) and (b), Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141, Special Condition 5 of the 2016 Permit, and Code Sections 11-4-730 and 7-28-080 until such time as Defendant demonstrates to Illinois EPA that it can and will operate in compliance with the Act, Board Air Pollution Regulations, and the 2016 Permit and to the City that it can and will operate in compliance with the Code, or until further order of this Court.

B. PRELIMINARY INJUNCTION RELIEF.

1. Order Defendant to:

- a. Immediately be restrained from conducting any operations at its Facility that result in the emission of the Pullman Odors emanating from the Facility into the surrounding neighborhoods in violation of Sections 9(a) and (b) of the Act, 415 ILCS 5/9(a) and (b), Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141, Special

Condition 5 of the 2016 Permit, and Code Sections 11-4-730 and 7-28-080, until such time Defendant demonstrates to Illinois EPA it can and will operate in compliance with the Act, Board Air Pollution Regulations, and the 2016 Permit, and to the City that it can and will operate in compliance with the Code, or further order of this Court.

- b. Within 30 days of the entry of this Order, submit to Illinois EPA, for review and comment, a draft odor and emissions plan (“Odor and Emissions Plan”) prepared by an independent third party to capture and control the Pullman Odors and emissions from the railcar loading/unloading operations, wastewater treatment area, the acidulation building, the storage tanks, and any other source of the Pullman Odors and emissions. The Odor and Emissions Plan shall include, at a minimum, the following:
 - i. a detailed process description for each emission point or group of emission points, a process flow diagram, and a configuration of control equipment and associated ductwork, including but not limited to railcar loading/unloading operations, wastewater treatment area, the acidulation building, and the storage tanks;
 - ii. a list of known compounds emitted, along with supporting documentation;
 - iii. process formulations;

- iv. an emissions control plan designed to control all odors emanating from the Facility;
- v. a statement of any assumptions or conclusions relied upon in preparing the Draft Odor and Emissions Plan;
- vi. a schedule for monitoring odors and/or emissions from all emission units;
- vii. a description of how monitoring for odors and/or emissions will be conducted;
- viii. a copy of operating procedures for each emission unit;
- ix. a list of recommendations to control odors, including any residual odors emanating from any portion of the Facility as a result of past operations, and emissions from the Facility, including routing additional odor sources to the regenerative thermal oxidizer (“RTO”) and/or installing additional control devices;
- x. the estimated cost for implementing each recommendation; and
- xi. a schedule for implementing the recommendations that provides interim milestones for completion of each recommendation for the railcar loading/unloading operations, wastewater treatment area, the acidulation building, the storage tanks, and any other source of the Pullman Odors and emissions.

- c. Within 90 days of receiving Illinois EPA's final comments on the Odor and Emissions Plan, complete implementation of the recommendations set forth in the Odor and Emissions Plan. Within 60 days of receiving Illinois EPA's final comments on the Odor and Emissions Plan, to the extent implementation requires Defendant to obtain any construction permit(s), Defendant shall submit to Illinois EPA an application for any required construction permit.
- d. Within 120 days of the entry of this Order, complete installation and begin operation of the RTO provided for in Construction Permit 25120002 issued on June 1, 2026 ("Construction Permit").
- e. Within 90 days after initial startup of the RTO, perform stack testing during conditions which are representative of maximum emissions from the affected process controlled by the RTO, as provided for in Section 8a. of the Construction Permit. Defendant shall perform the stack testing in accordance with the Construction Permit.
- f. Within 45 days after the submission of the Final Source Test Report(s), as provided in Section 8.f of the Construction Permit, if the results of the stack testing performed pursuant to Section III.B.c above do not demonstrate compliance with the Construction Permit, submit to Illinois EPA for review and comment a new or revised proposal to ensure the RTO is operating properly to capture and control emissions ("RTO Emissions Capture and Control Proposal"). The RTO Emissions

Capture and Control Proposal shall be prepared by an independent third party.

- g. Within 180 days of entry of this Order, establish a source-wide Leak Detection and Repair (“LDAR”) program prepared by an independent third party for the permanent total enclosure (“PTE”) (aka “hard piping”) (“Proposed Phase 1 LDAR Program”).
- h. Within 180 days of receiving Illinois EPA’s final comments on the Odor and Emissions Plan and, if required, the submission to Illinois EPA of application(s) for any required construction permit(s) as provided for in Section B.1.c above, establish a source-wide LDAR program prepared by an independent third party for any other components with the potential to leak as identified by the Odor and Emissions Plan (“Proposed Phase 2 LDAR Program”).
- i. Within 60 days after (1) implementation of the recommendations set forth in the Odor and Emissions Plan and, if required, the submission to Illinois EPA of application(s) for any required construction permit(s) as provided for in Section B.1.c above; (2) demonstration to Illinois EPA that the RTO is operating properly to capture and control emissions; and (3) demonstration to Illinois EPA that the Facility can operate without the emission of the Pullman Odors unreasonably interfering with the Neighborhood Residents’ enjoyment of their lives and properties, submit an application for an operating permit to include the following:

- i. Incorporation of the Construction Permit and any other construction permit(s) that may be required by the Odor and Emissions Plan;
 - ii. Monitoring Procedures provided for in the LDAR;
 - iii. Updated operating procedures, operating parameter limits, and associated monitoring, recordkeeping, and reporting for the existing scrubbers;
 - iv. Operating procedure improvement of capture and control for the Acidulation Building, including incorporation of any necessary construction permits; and
 - v. Rail car loading/unloading area capture and control needed, including incorporation of any necessary construction permits.
- j. If Illinois EPA provides comment(s) on any plan, report, or other submittal, within the time frame set forth in Illinois EPA's written comment(s), submit a proposal that addresses Illinois EPA's comments. This process shall continue until Defendant has addressed Illinois EPA's comment(s).
- k. If the Illinois EPA provides comment on any plan or submittal, implement the version of the plan that addresses the Illinois EPA's comments pursuant to any schedule therein, if applicable.
- l. If the Illinois EPA approves with conditions or disapproves of any plan, report, or other submittal, within the time frame set forth in Illinois EPA's written approval with conditions or disapproval, submit a

proposal that addresses the Illinois EPA's conditions or reasons for disapproval. This process shall continue until the Illinois EPA approves the document.

m. If the Illinois EPA approves any plan or submittal, implement the approved plan or other submittal pursuant to the schedule approved by Illinois EPA.

2. Any other such other relief that the Court deems just.²

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
ex rel. KWAME RAOUL,
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² Plaintiffs reserve the right to seek additional relief, including additional injunctive relief and civil penalties.

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