

[Copy of lawsuit]

[Filed 6-11-07]

IN THE IOWA DISTRICT COURT FOR POTTAWATTAMIE COUNTY

STATE OF IOWA, ex rel., IOWA )  
DEPARTMENT OF NATURAL )  
RESOURCES (99AG23542), )

Plaintiff, )

vs. )

MIDAMERICAN ENERGY COMPANY, )  
an Iowa Corporation, )

Defendant. )

LAW NO. [04781 CVCV 94970]

PETITION AT LAW

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

**Introduction**

1. The IDNR seeks the assessment of civil penalties and injunctive relief against MidAmerican for air pollution control violations committed at or in relation to MidAmerican's energy facility located in Council Bluffs, Pottawattamie County, Iowa.

2. MidAmerican failed to apply for and obtain air quality construction permits to prevent significant deterioration (PSD) prior to construction of eleven (11) emission points and operated the emission points prior to obtaining construction permits.

3. MidAmerican constructed and operated thirteen (13) other emission points contrary to the plans and specifications contained in construction permit applications for said emission points and incorporated into issued PSD construction permits.

## **Parties**

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

## **Jurisdiction**

### **Air Pollution Control**

7. The IDNR is the state agency with the duty to prevent, abate, or control air pollution. Iowa Code § 455B.132. The specific administrative and enforcement duties of the IDNR director relating to air pollution control are contained, in part, in Iowa Code sections 455B.134(1)-(13).
8. The IDNR director is authorized to grant construction or operation permits for new, modified, or existing air contaminant sources and for related control equipment. Iowa Code § 455B.134(3).
9. No air contaminant source shall be installed, altered so that it significantly affects emissions, or placed in use unless a construction or conditional permit has been issued for the source. Iowa Code § 455B.134(3)(a).
10. The Iowa Environmental Protection Commission (EPC) is authorized to adopt rules for the abatement, control, and prevention of air pollution. Iowa Code § 455B.133(2). The rules may include those that are necessary to obtain approval of the state implementation plan (SIP) under section 110 [42 U.S.C. § 7410] of the federal Clean Air Act. Id. Air pollution control rules are contained in 567 Iowa Admin. Code chapters 20 - 29, and 31 - 34.

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

### **General Definitions**

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

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

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

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

16. "Major stationary source" means "a stationary air contaminant source which directly emits, or has the potential to emit, one hundred tons or more of an air pollutant per year including a major source of fugitive emissions of a pollutant as determined by rule by the department

[IDNR] or the administrator of the United States [E]nvironmental [P]rotection [A]gency [EPA]." Iowa Code § 455B.131(7).

17. "Potential to emit" means "the maximum capacity of a stationary source to emit a pollutant under its physical and operational design as defined in rules adopted by the department [IDNR]." Iowa Code § 455B.131(10); see also 567 Iowa Admin. Code 20.2 and 33.3(1).

#### **Prevention of Significant Deterioration (PSD)**

18. The federal Clean Air Act requires the EPA to establish National Ambient Air Quality Standards (NAAQS). 42 U.S.C. § 7409(a)(1). Primary and secondary NAAQS are prescribed to protect the public health and welfare, respectively. 42 U.S.C. §§ 7409(b)(1) and (2); 40 C.F.R. § 50.2(b). Primary and secondary NAAQS have been adopted for six pollutants: sulfur oxides (sulfur dioxide) (SO<sub>2</sub>), particulate matter with an aerodynamic diameter less than or equal to 10 micrometers (PM<sub>10</sub>) or less than or equal to 2.5 micrometers (PM<sub>2.5</sub>), carbon monoxide (CO), ozone (O<sub>3</sub>), nitrogen dioxide (NO<sub>2</sub>), and lead (Pb). 40 C.F.R. §§ 50.4 - 50.12. All areas of the State of Iowa have been designated as being in attainment or unclassifiable for all primary and secondary NAAQS. 40 C.F.R. § 81.316.

19. For areas which are designated in attainment with NAAQS or unclassifiable, the federal Clean Air Act includes a program to prevent significant deterioration (PSD) of air quality. 42 U.S.C. §§ 7470-7479. Preconstruction requirements are imposed on any major emitting facility to prevent significant deterioration of the air quality. 42 U.S.C. § 7475.

20. For purposes of the PSD program, "construction" also includes "modification," as defined in 42 U.S.C. section 7411(a), of any source or facility. 42 U.S.C. § 7479(2)(C).

"Modification" means "any physical change in, or change in the method of operation of, a stationary source which increases the amount of any air pollutant emitted by such source or which results in the emission of any air pollutant not previously emitted." 42 U.S.C.

§ 7411(a)(4).

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

22. Unless exempted in 567 Iowa Admin. Code 22.1(2) or to meet the parameters established in 567 Iowa Admin. Code 22.1(1)"c", no person shall construct, install, reconstruct or alter any equipment, control equipment or anaerobic lagoon without first obtaining a construction permit required pursuant to 567 Iowa Admin. Code 22.4. 567 Iowa Admin. Code 22.1(1).

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

24. Any owner or operator who constructs or operates a source or modification not in accordance with the PSD permit application submitted or with the terms of any approval to construct, or who commences construction without applying for and receiving approval shall be subject to appropriate enforcement action. 40 C.F.R. 52.21(r)(1) (adopted by former 567 Iowa Admin. Code 22.4).

25. On November 1, 2006, 567 Iowa Admin. Code 22.4 was modified to instead refer to newly adopted PSD rules contained in 567 Iowa Admin. Code 33. IAB Vol. XXIX, No. 7 (9/27/06) p. 451, ARC 5388B.

26. 567 Iowa Admin. Code 33.1 provides that chapter 33 implements the major New Source Review (NSR) program contained in Part C of Title I of the federal Clean Air Act as amended on November 15, 1990, and as promulgated under 40 C.F.R. 51.166 and 52.21 as amended through November 29, 2005. The NSR program is described as a preconstruction review and permitting program applicable to new or modified major stationary sources of air pollutants regulated under Part C of the Clean Air Act. The PSD program applies to areas which are in attainment with NAAQS.

27. PSD program requirements apply to the construction of any new major stationary source or any project at an existing major stationary source in an area designated as in attainment or unclassifiable under section 107(d)(1)(A)(ii) or (iii) of the federal Clean Air Act. 567 Iowa Admin. Code 33.3(2).

28. The requirements of 567 Iowa Admin. Code 33.3(10) through 33.3(18) include control technology review, source impact analysis, air quality modeling, air quality analysis, source information, additional impact analyses, additional requirements for sources impacting federal Class I areas, public participation, and source obligations.

29. The requirements of 567 Iowa Admin. Code 33.3(10) through 33.3(18) apply to the construction of any new major stationary source or the major modification of any existing major stationary source, except as this rule (PSD program requirements) otherwise provides. 567 Iowa Admin. Code 33.3(2)"a".

30. No new stationary source or major modification to which the requirements of subrule 33.3(10) through paragraph 33.3(18)"e" apply shall begin actual construction without a permit that states that the major stationary source or major modification will meet those requirements. 567 Iowa Admin. Code 33.3(2)"b".

31. If changes in the final plans and specifications are proposed by the permittee after a construction permit has been issued, a supplemental permit shall be obtained. 567 Iowa Admin. Code 22.3(3)"e".

#### **Facts**

32. MidAmerican owns and operates an electricity generating facility known as the "Council Bluffs Energy Center" (CBEC) located at 7215 Navajo Street, Council Bluffs, Pottawattamie County, Iowa. The facility includes fossil fuel-fired steam electric generating equipment with more than 250 million British thermal units (BTUs) per hour heat input. The facility includes numerous sources of air pollutants including but not limited to boilers, coal conveying equipment, and flyash storage. The facility emits more than 37,000 tons per year of regulated air pollutants including particulate matter, SO<sub>2</sub>, NO<sub>x</sub>, VOCs and CO.

33. On September 25, 2002, MidAmerican submitted to the IDNR nineteen (19) PSD construction permit applications for a major modification at the CBEC, namely, to add a new coal-fired boiler, modify existing coal-handling equipment, and add additional ancillary equipment for the new boiler.

34. On June 17, 2003, the IDNR issued the nineteen (19) air quality construction permits requested by MidAmerican.

35. On October 13, 2003, MidAmerican submitted notification to the IDNR that construction commenced September 15, 2003.

36. On October 11, 2006, MidAmerican submitted PSD permit applications for the following emission points which had already been constructed without permits and should have been included with the applications prior to commencement of their construction:

<b>Emission Point</b>	<b>Description</b>	<b>Startup Date</b>
EP 161	Lime Day Bin Vent Filter	2/14/2007
EP 162B	Lime Filter Separator Exhaust #2	4/26/2007
EP 165A	Activated Carbon Silo Vent #1	1/9/2007
EP 165B	Activated Carbon Silo Vent #2	1/9/2007
EP 171	Flyash Recycle Silo Vacuum System Exhaust #1	3/13/2007
EP 172	Flyash Recycle Silo Vacuum System Exhaust #2	3/13/2007
EP 173	Flyash Recycle Silo Vacuum System Exhaust #3	3/13/2007
EP 174	Flyash Recycle Silo Vent Filter	3/13/2007
EP 180	Water Treatment Area Lime Storage Silo A Vent Filter	10/20/2006
EP 181	Water Treatment Area Lime Storage Silo B Vent Filter	9/6/2006
EP 182	Water Treatment Area Soda Ash Storage Silo Vent Filter	9/6/2006

Despite having not obtained construction permits, MidAmerican began operating these emission points on the dates noted above.

37. Also on October 11, 2006, MidAmerican requested modification of the following thirteen (13) previously issued PSD permits to reflect as-built changes from the plans and specifications originally submitted with their permit applications:

<b>Permit</b>	<b>Emission Point</b>	<b>Description</b>	<b>Startup Date</b>
03-A-425-P1	EP 141	CBEC #4 Boiler	1/27/2007
03-A-426-P1	EP 142	Auxiliary Boiler	8/3/2006
03-A-428-P	EP 143	Emergency Generator	12/5/2006
03-A-429-P	EP 144	Diesel Fire Pump	4/13/2006
03-A-427-P	EP 145	Cooling Tower	1/6/2007



03-A-430-P1	EP 168	Flyash/FGD Waste Vacuum System Exhauster #1	2/22/2007
03-A-431-P1	EP 169	Flyash/FGD Waste Vacuum System Exhauster #2	2/22/2007
03-A-432-P1	EP 170	Flyash/FGD Waste Vacuum System Exhauster #3	2/22/2007
03-A-433-P1	EP 167	Flyash/FGD Waste Storage Silo Vent Filter	2/22/2007
03-A-434-P1	EP 163	Lime Storage Silo Vent Filter	3/6/2007
03-A-435-P	EP 162A	Lime Filter Separator Vacuum Exhauster #1	4/26/2007
03-A-440-P1	EP 160	Unit 4 East Coal Silos Dust Collection	2/19/2007
03-A-442-P1	EP 164A	Urea Silos	2/20/2007

MidAmerican had not constructed these emission points as described in the plans and specifications approved by the IDNR as part of the original permitting process.

38. Permit Condition No. 3 for each air quality construction permit requires that construction conform to the final plans and specifications as submitted to the IDNR. A supplement to the permit is required for any proposed changes to the final submitted plans and specifications.

39. On March 20, 2007, the IDNR issued to MidAmerican a Notice of Violation for failure to obtain air quality construction permits prior to construction of the eleven (11) emission points referred to in paragraph thirty-six (36) above. The Notice of Violation also cited MidAmerican for failure to construct in accordance with issued air quality construction permits the thirteen (13) emission points referred to in paragraph thirty-seven (37) above and failure to timely submit final plans and specifications for each emission point. The Notice of Violation is attached hereto as Exhibit A and incorporated herein by this reference.

40. On April 9, 2007, the IDNR issued for public comment draft air quality construction permits and permit modifications for each of the emission points referred to in paragraphs thirty-six (36) and thirty-seven (37) above.

41. On May 24, 2007, after receiving public comments and issuing a responsiveness summary, the IDNR issued the following air quality construction permits to MidAmerican:

EP ID	Emission Unit Description (EU ID)	Permit Number
161	Lime Day Bin (EU 161)	07-A-385-P
162B	Lime Filter Separator (EU 162B)	07-A-386-P
165A	Activated Carbon Silo #1 (EU 165A)	07-A-387-P
165B	Activated Carbon Silo #2 (EU 165B)	07-A-388-P
171	Flyash Recycle Silo Vacuum System Exhauster #1 (EU (171))	07-A-389-P
172	Flyash Recycle Silo Vacuum System Exhauster #2 (EU (172))	07-A-390-P
173	Flyash Recycle Silo Vacuum System Exhauster #3 (EU (173))	07-A-391-P
174	Flyash Recycle Silo (EU 174)	07-A-392-P
180	Water Treatment Area Lime Storage Silo A – West (EU 180)	07-A-393-P
181	Water Treatment Area Lime Storage Silo B – West (EU 181)	07-A-394-P
182	Water Treatment Area Soda Ash Storage Silo (EU 182)	07-A-395-P

EP ID	Emission Unit Description (EU ID)	New Permit No.	Modification(s)
141	CBEC 4 Boiler and fugitive emissions (EU 141)	03-A-425-P2	Stack parameters, removal of carbon silos & removal of 112g limits
142	Auxiliary Boiler (EU 142)	03-A-426-P2	Stack parameters & capacity
145	Cooling Tower (EU 145)	03-A-427-P1	Stack parameters & capacity
143	Emergency Generator (EU 143)	03-A-428-P1	Stack parameters & capacity
144	Diesel Fire Pump (EU 144)	03-A-429-P1	Stack parameters & capacity
168	Flyash/FGD Waste Vacuum System Exhauster #1 (EU 168)	03-A-430-P2	Stack parameters
169	Flyash/FGD Waste Vacuum System Exhauster #2 (EU 169)	03-A-431-P2	Stack parameters
170	Flyash/FGD Waste Vacuum System Exhauster #3 (EU 170)	03-A-432-P2	Stack parameters
167	Flyash/FGD Waste Storage Silo (EU 167)	03-A-433-P2	Stack parameters

163	Lime Storage Silo (EU 163)	03-A-434-P2	Stack parameters
162A	Lime Filter Separator (EU 162A)	03-A-435-P1	Renamed emission unit & stack parameters
160	Unit 4 Silos (EU 160)	03-A-440-P2	Combined EUs (3 silos to 6 silos) & stack parameters
164	Urea Silo Dissolver Tank (EU 164)	03-A-442-P2	Converted to liquid system & stack parameters

## VIOLATIONS

### Construction and Operation Without Permits

42. MidAmerican failed to obtain an air quality construction permit prior to construction of EP 161, Lime Day Bin Vent Filter, and operated such source without first obtaining a permit, in violation of Iowa Code section 455B.134(3)(a), 567 Iowa Admin. Code 22.1(1) and 22.4.

43. MidAmerican failed to obtain an air quality construction permit prior to construction of EP 162B, Lime Filter Separator Exhaust #2, and operated such source without first obtaining a permit, in violation of Iowa Code section 455B.134(3)(a), 567 Iowa Admin. Code 22.1(1) and 22.4.

44. MidAmerican failed to obtain an air quality construction permit prior to construction of EP 165A, Activated Carbon Silo Vent #1, and operated such source without first obtaining a permit, in violation of Iowa Code section 455B.134(3)(a), 567 Iowa Admin. Code 22.1(1) and 22.4.

45. MidAmerican failed to obtain an air quality construction permit prior to construction of EP 165B, Activated Carbon Silo Vent #2, and operated such source without first obtaining a

permit, in violation of Iowa Code section 455B.134(3)(a), 567 Iowa Admin. Code 22.1(1) and 22.4.

46. MidAmerican failed to obtain an air quality construction permit prior to construction of EP 171, Flyash Recycle Silo Vent Vacuum System Exhaust #1, and operated such source without first obtaining a permit, in violation of Iowa Code section 455B.134(3)(a), 567 Iowa Admin. Code 22.1(1) and 22.4.

47. MidAmerican failed to obtain an air quality construction permit prior to construction of EP 172, Flyash Recycle Silo Vent Vacuum System Exhaust #2, and operated such source without first obtaining a permit, in violation of Iowa Code section 455B.134(3)(a), 567 Iowa Admin. Code 22.1(1) and 22.4.

48. MidAmerican failed to obtain an air quality construction permit prior to construction of EP 173, Flyash Recycle Silo Vent Vacuum System Exhaust #3, and operated such source without first obtaining a permit, in violation of Iowa Code section 455B.134(3)(a), 567 Iowa Admin. Code 22.1(1) and 22.4.

49. MidAmerican failed to obtain an air quality construction permit prior to construction of EP 174, Flyash Recycle Silo Vent Filter, and operated such source without first obtaining a permit, in violation of Iowa Code section 455B.134(3)(a), 567 Iowa Admin. Code 22.1(1) and 22.4.

50. MidAmerican failed to obtain an air quality construction permit prior to construction of EP 180, Water Treatment Area Lime Storage Silo A Vent Filter, and operated such source

without first obtaining a permit, in violation of Iowa Code section 455B.134(3)(a), 567 Iowa Admin. Code 22.1(1) and 22.4.

51. MidAmerican failed to obtain an air quality construction permit prior to construction of EP 181, Water Treatment Area Lime Storage Silo B Vent Filter, and operated such source without first obtaining a permit, in violation of Iowa Code section 455B.134(3)(a), 567 Iowa Admin. Code 22.1(1) and 22.4.

52. MidAmerican failed to obtain an air quality construction permit prior to construction of EP 182, Water Treatment Area Soda Ash Storage Silo Vent Filter, and operated such source without first obtaining a permit, in violation of Iowa Code section 455B.134(3)(a), 567 Iowa Admin. Code 22.1(1) and 22.4.

**Construction Contrary to Permits and  
Operation without First Obtaining Permit Modifications**

53. MidAmerican failed to construct EP 141, CBEC #4 Boiler, according to the plans and specifications submitted to and approved by the IDNR, and operated such source without first obtaining a permit modification, in violation of Iowa Code section 455B.134(3)(a); 567 Iowa Admin. Code 22.1(1), 22.3(3)“e”, and 22.4; and Air Quality Construction Permit No. 03-A-425-P1, Condition No. 3.

54. MidAmerican failed to construct EP 142, Auxiliary Boiler, according to the plans and specifications submitted to and approved by the IDNR, and operated such source without first obtaining a permit modification, in violation Iowa Code section 455B.134(3)(a); 567 Iowa

Admin. Code 22.1(1), 22.3(3)“e”, and 22.4; and Air Quality Construction Permit No. 03-A-426-P1, Condition No. 3.

55. MidAmerican failed to construct EP 143, Emergency Generator, according to the plans and specifications submitted to and approved by the IDNR, and operated such source without first obtaining a permit modification, in violation of Iowa Code section 455B.134(3)(a); 567 Iowa Admin. Code 22.1(1), 22.3(3)“e”, and 22.4; and Air Quality Construction Permit No. 03-A-428-P, Condition No. 3.

56. MidAmerican failed to construct EP 144, Diesel Fire Pump, according to the plans and specifications submitted to and approved by the IDNR, and operated such source without first obtaining a permit modification, in violation of Iowa Code section 455B.134(3)(a); 567 Iowa Admin. Code 22.1(1), 22.3(3)“e”, and 22.4; and Air Quality Construction Permit No. 03-A-429-P, Condition No. 3.

57. MidAmerican failed to construct EP 145, Cooling Tower, according to the plans and specifications submitted to and approved by the IDNR, and operated such source without first obtaining a permit modification, in violation of Iowa Code section 455B.134(3)(a); 567 Iowa Admin. Code 22.1(1), 22.3(3)“e”, and 22.4; and Air Quality Construction Permit No. 03-A-427-P, Condition No. 3.

58. MidAmerican failed to construct EP 160, Unit 4 East Coal Silos Dust Collection, according to the plans and specifications submitted to and approved by the IDNR, and operated such source without first obtaining a permit modification, in violation of Iowa Code section

455B.134(3)(a); 567 Iowa Admin. Code 22.1(1), 22.3(3)“e”, and 22.4; and Air Quality Construction Permit No. 03-A-440-P1, Condition No. 3.

59. MidAmerican failed to construct EP 162A, Lime Filter Separator Vacuum Exhauster #1, according to the plans and specifications submitted to and approved by the IDNR, and operated such source without first obtaining a permit modification, in violation of Iowa Code section 455B.134(3)(a); 567 Iowa Admin. Code 22.1(1), 22.3(3)“e”, and 22.4; and Air Quality Construction Permit No. 03-A-435-P, Condition No. 3.

60. MidAmerican failed to construct EP 163, Lime Storage Silo Vent Filter, according to the plans and specifications submitted to and approved by the IDNR, and operated such source without first obtaining a permit modification, in violation of Iowa Code section 455B.134(3)(a); 567 Iowa Admin. Code 22.1(1), 22.3(3)“e”, and 22.4; and Air Quality Construction Permit No. 03-A-434-P1, Condition No. 3.

61. MidAmerican failed to construct EP 164A, Urea Silos, according to the plans and specifications submitted to and approved by the IDNR, and operated such source without first obtaining a permit modification, in violation of Iowa Code section 455B.134(3)(a); 567 Iowa Admin. Code 22.1(1), 22.3(3)“e”, and 22.4; and Air Quality Construction Permit No. 03-A-442-P1, Condition No. 3.

62. MidAmerican failed to construct EP 167, Flyash/FDG Waste Storage Silo Vent Filter, according to the plans and specifications submitted to and approved by the IDNR, and operated such source without first obtaining a permit modification, in violation of Iowa Code

section 455B.134(3)(a); 567 Iowa Admin. Code 22.1(1), 22.3(3)“e”, and 22.4; and Air Quality Construction Permit No. 03-A-433-P1, Condition No. 3.

63. MidAmerican failed to construct EP 168, Flyash/FGD Waste Vacuum System Exhauster #1, according to the plans and specifications submitted to and approved by the IDNR, and operated such source without first obtaining a permit modification, in violation of Iowa Code section 455B.134(3)(a); 567 Iowa Admin. Code 22.1(1), 22.3(3)“e”, and 22.4; and Air Quality Construction Permit No. 03-A-430-P1, Condition No. 3.

64. MidAmerican failed to construct EP 169, Flyash/FGD Waste Vacuum System Exhauster #2, according to the plans and specifications submitted to and approved by the IDNR, and operated such source without first obtaining a permit modification, in violation of Iowa Code section 455B.134(3)(a); 567 Iowa Admin. Code 22.1(1), 22.3(3)“e”, and 22.4; and Air Quality Construction Permit No. 03-A-431-P1, Condition No. 3.

65. MidAmerican failed to construct EP 170, Flyash/FGD Waste Vacuum System Exhauster #2, according to the plans and specifications submitted to and approved by the IDNR, and operated such source without first obtaining a permit modification, in violation of Iowa Code section 455B.134(3)(a); 567 Iowa Admin. Code 22.1(1), 22.3(3)“e”, and 22.4; and Air Quality Construction Permit No. 03-A-432-P1, Condition No. 3.

**Failure to Submit Final Plans and Specifications**

66. MidAmerican failed to timely submit complete and conforming final plans and specifications for the permitted emission units and their respective control equipment within 30



days of the start of construction in violation of Condition 14 of Air Quality Construction Permit Nos. 03-A-425-P1, 03-A-426-P1, 03-A-427-P, 03-A-428-P, 03-A-429-P, 03-A-430-P1, 03-A-431-P1, 03-A-432-P1, 03-A-433-P1, 03-A-434-P1, 03-A-435-P, 03-A-440-P1, and 03-A-442-P1.

### **Prayer for Relief**

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

- a. assess a civil penalty against Defendant MidAmerican Energy Company, pursuant to Iowa Code section 455B.146 for each day of violation of Iowa Code section 455B.134(3)(a); 567 Iowa Admin. Code 22.1(1), 22.3(3)“e” and 22.4; and Air Quality Construction Permit Nos. 03-A-425-P1, 03-A-426-P1, 03-A-427-P, 03-A-428-P, 03-A-429-P, 03-A-430-P1, 03-A-431-P1, 03-A-432-P1, 03-A-433-P1, 03-A-434-P1, 03-A-435-P, 03-A-440-P1, and 03-A-442-P1, not to exceed Ten Thousand Dollars (\$10,000.00) for each day of each such violation; and
- b. permanently enjoin Defendant MidAmerican Energy Company from further violations of Iowa Code section 455B.134(3)(a); 567 Iowa Admin. Code 22.1(1), 22.3(3)“e”, 22.4, and 33.3(2)“b”; and Air Quality Construction Permit Nos. 07-A-385-P, 07-A-386-P, 07-A-387-P, 07-A-388-P, 07-A-389-P, 07-A-390-P, 07-A-391-P, 07-A-392-P, 07-A-393-P, 07-A-394-P, 07-A-395-P, 03-A-425-P2, 03-A-426-P2, 03-A-427-P1, 03-A-428-P1, 03-A-429-P1, 03-A-430-P2, 03-A-431-P2, 03-A-432-P2, 03-A-433-P2, 03-A-434-P2, 03-A-435-P1, 03-A-440-P2, and 03-A-442-P2.

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

Respectfully submitted,

THOMAS J. MILLER  
Attorney General of Iowa

S/

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