

ILLINOIS POLLUTION CONTROL BOARD  
April 5, 2012

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 11-58
	)	(Enforcement - Water)
ZACHARY ISAAC d/b/a NU SHINE CAR	)	
WASH, and SAMUEL JOHNSON,	)	
	)	
Respondents.	)	

ORDER OF THE BOARD (by D. Glosser):

On March 4, 2011, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a three-count complaint against Zachary Isaac doing business as (d/b/a) Nu Shine Car Wash, and Samuel Johnson (collectively, respondents). The complaint concerns respondents' car wash located at 1065 West Algonquin Road, Algonquin, McHenry County. In a separate stipulation, the People and respondent Samuel Johnson now seek to settle without a hearing. Zachary Isaac d/b/a Nu Shine Car Wash is not a party to this stipulation. For the reasons below, the Board directs the Clerk to provide public notice of the stipulation, proposed settlement, and request for relief from the hearing requirement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2010)), the Attorney General and the State's Attorneys may bring actions before the Board to enforce Illinois' environmental requirements on behalf of the People. *See* 415 ILCS 5/31 (2010); 35 Ill. Adm. Code 103. In this case, the People alleged that respondents violated provisions of the Act and Board's regulations by acting in the following manner:

- Count I:       Causing or tending to cause water pollution in violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2010);
  
- Count II:       Constructing a sewer line capable of causing or contributing to water pollution without a permit in violation of Section 12(b) of the Act, 415 ILCS 5/12(b) (2010), and Section 309.202(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 309.202(a) (2010);
  
- Count III:      Introducing non-domestic contaminants in Algonquin sewer system in violation of Section 12(h) of the Act, 415 ILCS 5/12(h) (2010).

On February 10, 2012, the People and respondent Samuel Johnson filed a stipulation and proposed settlement, accompanied by a request for relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (2010)). This filing is authorized by Section 31(c)(2)

of the Act (415 ILCS 5/31(c)(2) (2010)), which requires that the public have an opportunity to request a hearing whenever the State and a respondent propose settling an enforcement action without a public hearing. *See* 35 Ill. Adm. Code 103.300(a). The Board provided notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in *Sun Times Media/Pioneer Press Lake Shore Zone* on February 23, 2012. The Board did not receive any requests for hearing. The Board grants the parties' request for relief from the hearing requirement. *See* 415 ILCS 5/31(c)(2) (2010); 35 Ill. Adm. Code 103.300(b).

Section 103.302 of the Board's procedural rules sets forth the required contents of stipulations and proposed settlements. 35 Ill. Adm. Code 103.302. These requirements include stipulating to facts on the nature, extent, and causes of the alleged violations and the nature of respondents' operations. Section 103.302 also requires that the parties stipulate to facts called for by Section 33(c) of the Act (415 ILCS 5/33(c) (2010)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Samuel Johnson neither admits nor denies the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2010)), which may mitigate or aggravate the civil penalty amount. Samuel Johnson agrees to pay a civil penalty of \$4,000.00. The People and Samuel Johnson have satisfied Section 103.302. The Board accepts the stipulation and proposed settlement.

This opinion constitutes the Board's findings of fact and conclusions of law.<sup>1</sup>

### **ORDER**

1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. Samuel Johnson must pay a civil penalty of \$4,000 by May 7, 2012, which is the first business day following the 30th day after the date of this order. Samuel Johnson must pay the civil penalty by certified check or money order, payable to the Illinois Environmental Protection Agency for deposit into the Environmental Protection Trust Fund. The case number, case name, and Samuel Johnson's federal employer identification number must be included on the certified check or money order.
3. Samuel Johnson must submit payment of the civil penalty to:

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

Samuel Johnson must send a copy of the certified check or money order and any transmittal letter to:

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<sup>1</sup> The case against Zachary Isaac d/b/a Nu Shine Car Wash continues.

L. Nichole Cunningham, AAG  
Environmental Bureau  
Illinois Attorney General's Office  
69 W. Washington Street, Suite 1800  
Chicago, Illinois 60602

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2010)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2010)).
5. Samuel Johnson must cease and desist from future violations of the Environmental Protection Act and Board regulations that were the subject of the complaint.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2010); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on April 5, 2012, by a vote of 5-0.



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John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board