

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
<i>ex rel.</i> LISA MADIGAN, Attorney General)	
of the State of Illinois,)	
)	
Complainant,)	
)	
v.)	19 PCB
)	
VELOCITY SERVICES LLC, an Illinois)	
limited liability company,)	
)	
Respondent.)	

NOTICE OF FILING

TO: See attached service list (VIA ELECTRONIC FILING)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the following Complaint, a copy of which is attached and hereby served upon you. You may be required to answer the charges of the Complaint at a hearing before the Board, at a date set by the Board.

Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the clerk's office, or an attorney.

NOTIFICATION - YOU ARE HEREBY NOTIFIED that financing may be available through the Illinois Environmental Facilities Financing Act [20 ILCS 3515/1, et seq.] to correct the alleged violations.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
LISA MADIGAN, Attorney General of the State of Illinois

By: 
 NANCY J. TIKALSKY
 Assistant Attorney General
 Environmental Bureau
 Illinois Attorney General's Office
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 ARDC#: IL 6273159

Date: 17 September 2018

THIS FILING IS SUBMITTED ON RECYCLED PAPER

SERVICE LIST

For the Respondent
Velocity Services LLC
Mr. Bill Champion
1450 Edwardsville Rd.
Granite City, IL 62040

CERTIFICATE OF SERVICE

I, Nancy J Tikalsky, an Assistant Attorney General, certify that on the 17th day of August 2018, I caused to be served by Regular U.S. Mail the foregoing Notice of Filing and Complaint to the parties named on the attached Service List, by depositing same in postage prepaid envelopes with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois 60601.



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of the State of Illinois,)
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Complainant,)
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VELOCITY SERVICES LLC, an Illinois)
limited liability company,)
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Respondent.)

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, complains of Respondent, VELOCITY SERVICES LLC, an Illinois limited liability company, as follows:

COUNT I

VIOLATIONS OF HAZARDOUS WASTE OPERATING REGULATIONS

1. This Count is brought by the Attorney General on her own motion and at the request of the Illinois Environmental Protection Agency (“Illinois EPA”), pursuant to Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2016).

2. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2016), and charged, *inter alia*, with the duty of enforcing the Act.

3. The Illinois Pollution Control Board (“Board”) is an independent board created by the Illinois General Assembly in Section 5 of the Act, 415 ILCS 5/5 (2016), and charged, *inter alia*, with the duty of promulgating standards and regulations under the Act.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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ex rel. LISA MADIGAN, Attorney General)
of the State of Illinois,)
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COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, complains of Respondent, VELOCITY SERVICES LLC, an Illinois limited liability company, as follows:

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1. This Count is brought by the Attorney General on her own motion and at the request of the Illinois Environmental Protection Agency (“Illinois EPA”), pursuant to Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2016).
2. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2016), and charged, *inter alia*, with the duty of enforcing the Act.
3. The Illinois Pollution Control Board (“Board”) is an independent board created by the Illinois General Assembly in Section 5 of the Act, 415 ILCS 5/5 (2016), and charged, *inter alia*, with the duty of promulgating standards and regulations under the Act.

4. Respondent, Velocity Services LLC, is an Illinois limited liability company registered and in good standing with the Illinois Secretary of State's Office.

5. Respondent's offices are located at 1450 Edwardsville Rd., Granite City, Madison County, Illinois where it operates a coal tar storage terminal at the same location ("Facility").

6. The Facility formerly operated as a plant that manufactured coal tar-related chemicals under its Resource Conservation and Recovery Act ("RCRA") permit ("RCRA Permit"). The plant operation shut down in 2006.

7. Respondent's predecessor company and Respondent are subject to post-closure care requirements under its RCRA permit for a former surface impoundment at the Facility that was used to treat plant effluent.

8. The Illinois EPA conducts RCRA Compliance Evaluation Inspections ("CEI") at the Facility to determine compliance with the post-closure care requirements.

9. Respondent generates 1,000 kilograms or more of hazardous waste in a calendar month at the Facility.

10. Respondent's hazardous waste streams consist of contaminated personal protective equipment ("PPE") and contaminated sand ("CS") used to absorb spills or leaks of coal tar ("Waste Streams").

11. The hazardous wastes from these Waste Streams that are the subject of this complaint include the following classifications, codified as such under their respective sections of the Board's Identification and Listing of Hazardous Waste, Title 35, Part 721 of the Illinois Administrative Code ("Subject Wastes"):

K147	Tar storage tank residues from coal tar refining	§ 721.132
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K148	Residues from coal tar distillation, including, but not limited to, still bottoms	§ 721.132
D018	Benzene	§ 721.124
D026	Cresol	§ 721.124
U051	Creosote	§ 721.133

12. On December 21, 2015, the Illinois EPA conducted a RCRA CEI of the Facility (“2015 Inspection”).

13. During the 2015 Inspection, Respondent disclosed that, as of that date, it had not received a copy of eight separate manifests for the shipments of Subject Wastes (“Subject Shipments”) from the designated treatment, storage, or disposal facility (“TSD Facility”) with the receiving TSD Facility’s signature as follows:

<u>Manifest Number</u>	<u>Date of Shipment</u>
009291009JJK	August 16, 2013
009291007JJK	September 20, 2013
009291021JJK	November 22, 2013
009291012JJK	February 18, 2014
009291013JJK	February 18, 2014
009291014JJK	August 7, 2014
009291017JJK	February 3, 2015
009291006JJK	July 27, 2015

14. As of the date of the Inspection, Respondent had not submitted an Exception Report for any of the Subject Shipments, for which Respondent had not received receiver-signed manifests from the designated TSD Facility.

15. During the 2015 Inspection, Respondent provided, and the inspector reviewed, copies of the generator-signed manifests for the Subject Shipments.

16. The generator-signed manifests for each of the Subject Shipments did not include Hazardous Waste Report Management Method Codes.

17. Following the 2015 Inspection, the Illinois EPA learned that the special waste hauler, to whom Respondent delivered the Subject Shipments for transport to a TSD Facility, hauled the Subject Wastes in vehicles not listed on the special waste hauler's Special Waste Hauling Permit.

18. Following the 2015 Inspection, the Illinois EPA learned that the Respondent designated that the Subject Wastes in the Subject Shipments delivered to the special waste hauler be hauled to two disposal facilities not authorized to receive the Subject Wastes.

19. Following the 2015 Inspection, the Illinois EPA learned that the special waste hauler, to whom Respondent delivered the Subject Shipments to for transport, attempted to deliver the Subject Wastes to the two disposal facilities designated on the manifest but the two disposal facilities refused to accept the Subject Wastes.

20. Following the 2015 Inspection, the Illinois EPA learned that the special waste hauler to whom Respondent delivered the Subject Shipments, stored the Subject Wastes of the Subject Shipments at the special waste hauler's facility, which was not permitted to store the hazardous Subject Waste.

21. Section 21(e) of the Act, 415 ILCS 5/21(e) (2016), provides:

No person shall:

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

22. Section 722.142(a)(2) of the Board Hazardous Waste Operating Regulations, 35

Ill. Adm. Code 722.142(a)(2), provides:

- (a) Generators of greater than 1,000 kilograms of hazardous waste in a calendar month.

- (2) A generator of 1,000 kilograms or greater of hazardous waste in a calendar month, or greater than 1 kg of acute hazardous waste listed in 35 Ill. Adm. Code 721.131 or 721.133(e) in a calendar month, must submit an Exception Report to the Agency if the generator has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter. The Exception Report must include the following documents:
 - (A) A legible copy of the manifest for which the generator does not have a confirmation of delivery; and
 - (B) A cover letter signed by the generator or the generator's authorized representative explaining the efforts taken to locate the hazardous waste and the result of those efforts.

23. Section 722.120(a) of the Board Hazardous Waste Operating Regulations, 35 Ill.

Adm. Code 722.120(a), provides, in pertinent part:

- (a) Manifest form required.
 - (1) A generator that transports hazardous waste or offers a hazardous waste for transportation for off-site treatment, storage, or disposal or a treatment, storage, or disposal facility that offers for transport a rejected load of hazardous waste must prepare a manifest on USEPA Form 8700-22 (and, if necessary, on USEPA Form 8700-22A) according to the instructions included in the appendix to 40 CFR 262 (Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions)), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

* * *

24. Box 19 of USEPA Form 8700-22, which is required by Section 722.120(a) of the Board Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 722.120(a), requires Hazardous Waste Report Management Method Codes.

25. Section 3.315 of the Act, 415 ILCS 5/3.315 (2016), provides the following definition:

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

26. Section 3.535 of the Act, 415 ILCS 5/3.535 (2016), provides the following definition, in pertinent part:

“Waste” means any garbage, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities

* * *

27. Section 3.220 of the Act, 415 ILCS 5/3.220 (2016), provides the following definition:

“Hazardous waste” means a waste, or combination of wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious, irreversible, or incapacitating reversible, illness; or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed, and which has been identified, by characteristics or listing, as hazardous pursuant to Section 3001 of the Resource Conservation and Recovery Act of 1976, P.L. 94-580, or pursuant to Board regulations. Potentially infectious medical waste is not a hazardous waste, except for those potentially infectious medical wastes identified by characteristics or listing as hazardous under

Section 3001 of the Resource Conservation and Recovery Act of 1976, P.L. 94-580, or pursuant to Board regulations.

28. Section 3.205 of the Act, 415 ILCS 5/3.205 (2016), provides the following definition:

“Generator” means any person whose act or process produces waste.

29. Respondent is a “person” as that term is defined by Section 3.315 of the Act, 415 ILCS 5/3.315 (2016).

30. The Subject Wastes are “waste” as that term is defined by Section 3.535 of the Act, 415 ILCS 5/3.535 (2016).

31. The Subject Wastes are “hazardous waste” as that term is defined by Section 3.220 of the Act, 415 ILCS 5/3.220 (2016).

32. Respondent is a “generator” of hazardous waste as that term is defined by Section 3.205 of the Act, 415 ILCS 5/3.205 (2016).

33. By failing to submit an Exception Report to the Illinois EPA within 45 days of the initial shipment for each of the Subject Shipments of hazardous waste, when Respondent did not receive receiver-signed copy for each of the manifests from the designated TSD Facility, Respondent violated Section 722.142(a)(2) of the Board Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 722.142(a)(2), and, thereby, Sections 21(e) and 21(f)(2) of the Act, 415 ILCS 5/21(e) and (f)(2) (2016) of the Act.

34. By failing to include Hazardous Waste Report Management Method Codes on the manifests for the Subject Shipments of hazardous waste, Respondent violated Section 722.120(a) of the Board Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 722.120(a), and, thereby, Section 21(e) of the Act, 415 ILCS 5/21(e) (2016) of the Act.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, VELOCITY SERVICES LLC, as follows:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2016) of the Act, and Sections 722.120(a) and 722.142(a)(2) of the Board Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 722.120(a) and 722.142(a)(2);
3. Ordering the Respondent to cease and desist from any further violations of Section 21(e) of the Act, 415 ILCS 5/21(e) (2016) of the Act, and Sections 722.120(a) and 722.142(a)(2) of the Board Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 722.120(a) and 722.142(a)(2);
4. Assessing against the Respondent a civil penalty of not more than fifty thousand dollars (\$50,000) for each violation, and an additional penalty of not more than ten thousand dollars (\$10,000) for each day during which each violation continued, pursuant to Section 42 of the Act, 415 ILCS 5/42 (2016);
5. Ordering the Respondent, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2016), to pay all costs expended by the State in its pursuit of this action, including attorney, expert witness, and consultant fees; and
6. Granting such other relief as the Board deems appropriate and just.

COUNT II

VIOLATION OF SPECIAL WASTE HAULING REGULATIONS

1–29. Complainant realleges and incorporates by reference herein paragraphs 1 through 21, and paragraphs 25 through 32 of Count I as paragraphs 1 through 29 of this Count II.

30. Section 808.121(b) and (c) of the Board Special Waste Hauling Regulations, 35 Ill. Adm. Code 808.121(b) and (c), provides:

(b) No person shall deliver special waste to a transporter unless the waste is accompanied by a manifest as specified in Section 808.122, and the transporter has a special waste hauling permit issued pursuant to 35 Ill. Adm. Code 809. The following are exceptions to this prohibition:

- (1) The person is subject to the small quantity generator exemption of Section 808.123.
- (2) The transporter and waste are subject to a transporter exemption under 35 Ill. Adm. Code 809.211.
- (3) The Agency has determined pursuant to this Part that the waste is not a special waste.
- (4) The waste consists of municipal water or wastewater treatment plant sludge regulated under a sludge management plan approved by the Agency pursuant to 35 Ill. Adm. Code 309.208.
- (5) The generator is not required to complete a manifest for used oil that is defined by and managed in accordance with 35 Ill. Adm. Code 739.
- (6) The generator is not required to complete a manifest for the following used oil mixtures, provided that the generator complies with the informational requirements of 35 Ill. Adm. Code 739.146(a) and 35 Ill. Adm. Code 809.501(b):
 - (A) Mixtures of used oil as defined by and managed in accordance with 35 Ill. Adm. Code 739 and hazardous waste, both

generated and mixed by a conditionally exempt small quantity generator of hazardous waste, provided that the mixture contains more than 50 percent used oil by either volume or weight;

(B) Mixtures of used oil as defined by and managed in accordance with 35 Ill. Adm. Code 739 and characteristic hazardous waste, with a Btu per pound content greater than 5,000 prior to being mixed with the used oil, when:

(i) the characteristic has been extinguished in the resultant mixture;

(ii) both the used oil and the characteristic hazardous waste have been generated and mixed by the same generator; and

(iii) the mixture contains more than 50 percent used oil by either volume or weight;

(C) Mixtures of used oil as defined by and managed in accordance with 35 Ill. Adm. Code 739 and fuel or other fuel products; and

(D) Used oil as defined by and managed in accordance with 35 Ill. Adm. Code 739 contaminated by or mixed with nonhazardous wastewater, when the used oil and the nonhazardous wastewater are generated by the same generator, and when the mixture results from use or unintentional contamination.

(c) No person shall cause, threaten or allow the treatment, storage or disposal of special waste in Illinois except:

(1) At a Facility permitted or otherwise authorized to manage the special waste pursuant to 35 Ill. Adm. Code 703 or 807; or

* * *

31. Section 808.122 of the Board Special Waste Hauling Regulations, 35 Ill. Adm.

Code 808.122, provides:

Except as otherwise provided by Section 808.121(b), the generator of any special waste shall prepare a manifest, as prescribed by 35 Ill. Adm. Code 809.501, prior to shipment.

32. Section 809.501(d) of the Board Special Waste Hauling Regulations, 35 Ill. Adm.

Code 809.501(d), provides:

- (d) A permitted site that receives special waste for disposal, storage or treatment of special waste must be designated on the manifest as the final destination point. Any subsequent delivery of the special waste or any portion or product thereof to a special waste transporter shall be conducted under a manifest initiated by the permitted disposal, storage or treatment site.

33. Section 3.475 of the Act, 415 ILS 5/3.475 (2016), provides the following

definition, in pertinent part:

“Special waste” means any of the following:

* * *

- (b) hazardous waste, as determined in conformance with RCRA hazardous waste determination requirements set forth in Section 722.111 of Title 35 of the Illinois Administrative Code, including a residue from burning or processing hazardous waste in a boiler or industrial furnace unless the residue has been tested in accordance with Section 726.212 of Title 35 of the Illinois Administrative Code and proven to be nonhazardous

* * *

34. Section 720.110 of the Board Hazardous Waste Operating Regulations, 35 Ill.

Adm. Code 720.110, provides the following definition:

“Small quantity generator” means a generator that generates less than 1,000 kg of hazardous waste in a calendar month.

35. The Subject Wastes are “special waste” as that term is defined by Section 3.475 of the Act, 415 ILCS 5/3.475 (2016).

36. The Respondent does not qualify as a “small quantity generator” as that term is defined in Section 720.110 of the Board Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 720.110.¹

37. None of the exceptions provided by Section 808.121(b)(1) through 808.121(b)(6) of the Board Special Waste Hauling Regulations, 35 Ill. Adm. Code 808.121(b)(1)–(6), apply to Respondent or the Subject Shipments.

38. By delivering the special waste to a special waste hauler that hauled the waste in vehicles not listed on its Special Waste Hauling Permit, Respondent violated Section 808.121(b) of the Board Special Waste Hauling Regulations, 35 Ill. Adm. Code 808.121(b), and, thereby, Section 21(e) of the Act, 415 ILCS 5/21(e) (2016).

39. By designating on the manifest a site not permitted to receive special waste for disposal, storage or treatment as the final destination point, Respondent violated Sections 809.501(d) and 808.122 of the Board Special Waste Hauling Regulations, 35 Ill. Adm. Code 809.501(d) and 808.122, and, thereby, Section 21(e) of the Act, 415 ILCS 5/21(e) (2016) of the Act.

¹ BOARD NOTE: 35 Ill. Adm. Code 720.110 defines a “small quantity generator” as a generator that generates less than 1,000 kilograms of hazardous waste in any calendar month. There is no corresponding definition of “large quantity generator” in the federal regulations, but the Board interprets the term to mean a hazardous waste generator that is not a small quantity generator. 35 Ill. Adm. Code 722.127

40. By delivering the Subject Shipments of special waste to a special waste hauler with manifests designating two separate disposal facilities that were not permitted to receive special waste, which then resulted in the special waste hauler storing the special waste at its own facility not permitted to store special waste, Respondent caused and threatened the storage and disposal of the special waste at three separate facilities not permitted to receive the special wastes in violation of Sections 808.121 (b) and (c) of the Board Special Waste Hauling Regulations, 35 Ill. Adm. Code 808.121(b) and (c), and, thereby, in violation of Section 21(e) of the Act, 415 ILCS 5/21(e) (2016) of the Act.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, VELOCITY SERVICES LLC, as follows:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2016) of the Act, and Sections 808.121(b) and (c), 809.501(d) and 808.122 of the Board Special Waste Hauling Regulations, 35 Ill. Adm. Code 808.121(b) and (c), 809.501(d) and 808.122;
3. Ordering the Respondent to cease and desist from any further violations of Section 21(e) of the Act, 415 ILCS 5/21(e) (2016) of the Act, and Sections 808.121(b) and (c), 809.501(d) and 808.122 of the Board Special Waste Hauling Regulations, 35 Ill. Adm. Code 808.121(b) and (c), 809.501(d) and 808.122;
4. Assessing against the Respondent a civil penalty of not more than fifty thousand dollars (\$50,000) for each violation, and an additional penalty of not more than ten thousand

dollars (\$10,000) for each day during which each violation continued, pursuant to Section 42 of the Act, 415 ILCS 5/42 (2016);

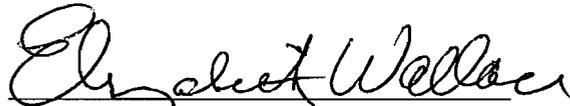
5. Ordering the Respondent, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2016), to pay all costs expended by the State in its pursuit of this action, including attorney, expert witness, and consultant fees; and
6. Granting such other relief as the Board deems appropriate and just.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
ex rel. LISA MADIGAN, Attorney General
of the State of Illinois

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

By:



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