

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

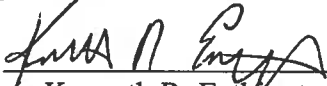
PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
vs.)	PCB NO. 20-16
)	(Enforcement – Land)
IRONHUSTLER EXCAVATING, INC., an Illinois)	
Corporation, RIVER CITY CONSTRUCTION,)	
LLC, an Illinois limited liability company, and)	
VENOVICH CONSTRUCTION CO., an)	
Illinois corporation,)	
)	
Respondents.)	

NOTICE OF FILING

To: See attached Certificate of Service

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Pollution Control Board an Entry of Appearance and the Answer to Complaint of Respondent River City Construction, LLC, a copy of which is herewith served upon you.

RIVER CITY CONSTRUCTION, LLC,
Respondent

By: 

 Kenneth R. Eathington
 Jeffrey A. Ryva
 Matthew A. Warner

QUINN, JOHNSTON, HENDERSON, PRETORIUS & CERULO

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 Jeffrey A. Ryva (ARDC #3128318)
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 QUINN, JOHNSTON, HENDERSON, PRETORIUS & CERULO
 227 NE Jefferson Avenue
 Peoria, IL 61602
 (309) 674-1133
 (309) 674-6503 (fax)

PROOF OF SERVICE

The undersigned certifies that on November 21, 2019, all counsel of record were served with a copy of the foregoing document via regular mail to the addresses below, in addition to electronic mail in accordance with Supreme Court Rule 11.

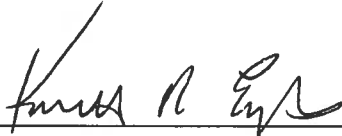
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jhscholl@dcamplaw.com

Furthermore, I, the undersigned certify that I served on November 21, 2019, the attached Notice of Filing upon the following person by depositing the document in a U.S. Postal Service mailbox by the time of 5:00 P.M., with proper postage or delivery charges prepaid:

Venovich Construction Company
c/o Joseph L. Venovich, Jr., Registered Agent
207 South Sampton Street
P.O. Box 410
Tremont, IL 61568



Kenneth R. Eathington

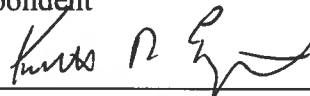
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ENTRY OF APPEARANCE

NOW COMES the law firm of QUINN, JOHNSTON, HENDERSON, PRETORIUS & CERULO, and hereby enters its appearance on behalf of the Respondent, RIVER CITY CONSTRUCTION, LLC, in the above-captioned cause.

RIVER CITY CONSTRUCTION, LLC,
Respondent

By: 

 Kenneth R. Eathington
 Jeffrey A. Ryva
 Matthew A. Warner

QUINN, JOHNSTON, HENDERSON, PRETORIUS & CERULO

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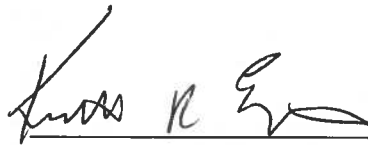
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ANSWER TO COMPLAINT

NOW COMES Respondent RIVER CITY CONSTRUCTION, LLC, (River City) an Illinois limited liability company, by its attorneys, QUINN, JOHNSTON, HENDERSON, PRETORIUS & CERULO, and for its answer to the complaint, states:

All answers to counts directed at all “Respondents” or “Respondents” in general are made on behalf of River City. River City lacks sufficient knowledge to respond to allegations directed at other respondents, and therefore neither admits nor denies those allegations.

COUNT I
OPEN DUMPING OF WASTE

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 the terms and provisions of Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2018), against Respondents, IRONHUSTLER EXCAVATING, INC., RIVER CITY CONSTRUCTION, LLC, and VENOVICH CONSTRUCTION CO.

ANSWER: River City admits Paragraph 1.

2. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly under Section 4 of the Act, 415 ILCS 5/4 (2018), and charged, *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board.

ANSWER: River City admits Paragraph 2.

3. The Illinois Pollution Control Board (“Board”) is an independent board created by the General Assembly in Section 5 of the Act, 415 ILCS 5/5 (2018), and charged, *inter alia*, with the duty of determining standards and adopting regulations.

ANSWER: River City admits Paragraph 3.

4. This Count is brought after providing Respondents, IronHustler Excavating, Inc., River City Construction, LLC and Venovich Construction Co., with notice and the opportunity for a meeting with the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2018).

ANSWER: River City admits Paragraph 4.

5. Respondent IronHustler Excavating, Inc. (“IronHustler”) is an Illinois corporation engaged in the business of providing construction and demolition services.

ANSWER: Upon information and belief, River City admits Paragraph 5.

6. Respondent River City Construction, LLC (“River City”) is an Illinois limited liability company engaged in the business of acting as a general contractor for construction and demolition projects.

ANSWER: River City admits Paragraph 6.

7. Respondent Venovich Construction Co. (“Venovich”) is an Illinois corporation also engaged in the business of acting as a general contractor for construction and demolition projects.

ANSWER: Upon information and belief, River City admits paragraph 7.

8. Venovich is the owner of certain property located at the end of King Road and along the Mackinaw River, in Hopedale Township, Tazewell County, Illinois (“Disposal Site”).

ANSWER: River City lacks sufficient knowledge to either admit or deny Paragraph 8 but demands strict proof thereof.

9. On a date better known to Respondents, the Delavan Community Unit School District No. 703 contracted with River City for the construction of a new high school wing which included the demolition, removal and disposal of a portion of the existing building located at 817 S. Locust Street, Delavan, Tazewell County, Illinois (“Source Site”).

ANSWER: River City admits Paragraph 9.

10. On a date better known to Respondents, River City subcontracted the demolition, removal, and disposal work to IronHustler.

ANSWER: River City admits Paragraph 10.

11. As general contractor, River City was responsible for controlling and supervising the contract work and was responsible for the acts or omissions of its subcontractors.

ANSWER: Paragraph 11 states a legal conclusion to which no answer is required. To the extent that Paragraph 11 alleges facts, those facts are denied.

12. Joseph L. Venovich, Jr. is the president and principal agent of Venovich Construction.

ANSWER: River City lacks sufficient knowledge to either admit or deny Paragraph 12 but demands strict proof thereof.

13. Joseph Venovich requested that IronHustler haul “clean” concrete to the Disposal Site from the Delavan School demolition project for erosion control. Venovich Construction has

an Illinois Department of Natural Resources ("Illinois DNR") permit to address stream bank erosion at the Disposal Site.

ANSWER: River City lacks sufficient knowledge to either admit or deny Paragraph 13 but demands strict proof thereof.

14. Joseph Venovich had previously accepted clean concrete from an earlier IronHustler demolition project.

ANSWER: River City lacks sufficient knowledge to either admit or deny Paragraph 14 but demands strict proof thereof.

15. On July 13, 2017, the Illinois EPA inspected the Disposal Site. Approximately 750 cubic yards of open dumped demolition debris was located at the end of King Road along the Mackinaw River. Some of the demolition debris was located in water along the edge of the river.

ANSWER: River City lacks sufficient knowledge to either admit or deny Paragraph 15 but demands strict proof thereof.

16. The demolition debris contained electrical wire, metal radiators, wood, rebar, wire conduit, metal sheeting, metal angle iron, painted brick, plywood, metal studs, metal pipe, painted concrete, slag, and ceramic tile. John Deere 650H dozer with IronHustler markings was located at the Disposal Site.

ANSWER: River City lacks sufficient knowledge to either admit or deny Paragraph 16 but demands strict proof thereof.

17. After being contacted by Illinois EPA, Joseph Venovich arrived at the Disposal Site sometime after 5:00 p.m. on July 13, 2017.

ANSWER: River City lacks sufficient knowledge to either admit or deny Paragraph 17 but demands strict proof thereof.

18. Upon observing that general construction demolition debris had been open dumped at the Disposal Site by IronHustler, Joseph Venovich contacted IronHustler and demanded that the open dumped demolition debris be removed from the Disposal Site.

ANSWER: River City lacks sufficient knowledge to either admit or deny Paragraph 18 but demands strict proof thereof.

19. On July 13, 2017, the Illinois EPA also inspected the Source Site in Delavan, Illinois. Demolition debris was present along with a Caterpillar 3290 tracked excavator and a Caterpillar 330DL tracked excavator both with IronHustler markings.

ANSWER: River City lacks sufficient knowledge to either admit or deny Paragraph 19 but demands strict proof thereof.

20. On November 16, 2017, the Illinois EPA re-inspected the Disposal Site. The open dumped demolition debris had been removed. Copies of disposal receipts were submitted to Illinois EPA by IronHustler documenting the disposal of 567.32 tons of demolition debris at the Indian Creek Landfill on July 17, 2017.

ANSWER: River City lacks sufficient knowledge to either admit or deny Paragraph 20 but demands strict proof thereof.

21. Respondents never applied for or were granted a permit from Illinois EPA to develop and operate a landfill at the Disposal Site.

ANSWER: River City lacks sufficient knowledge to either admit or deny Paragraph 21 but demands strict proof thereof.

22. Sections 3.185, 3.305, 3.385 and 3.535 of the Act, 415 ILCS 5/3.185, 3.305, 3.385 and 3.535 (2018), respectively, provide the following definitions:

“Disposal” means the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste or hazardous waste into or on any land or water or into any well so that such waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

“Open dumping” means the consolidation of refuse from one or more sources at a disposal site that does not fulfill the requirements of a sanitary landfill.

“Refuse” means waste.

“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.

ANSWER: River City acknowledges the existence of the alleged statutes.

23. Section 3(a) of the Litter Control Act, 415 ILCS 105/3(a) (2018), provides the following definition:

“Litter” means any discarded, used or unconsumed substance or waste. “Litter” may include, but is not limited to, any garbage, trash, refuse, cigarettes, debris, rubbish, grass clippings or other lawn or garden waste, newspaper, magazines, glass, metal, plastic or paper containers or other packaging construction material, abandoned vehicle (as defined in the Illinois Vehicle Code), motor vehicle parts, furniture, oil, carcass of a dead animal, any nauseous or offensive matter of any kind, any object likely to injure any person or create a traffic hazard, potentially infectious medical waste as defined in Section 3.360 of the Environmental Protection Act, or anything else of an unsightly or unsanitary nature, which has been discarded, abandoned or otherwise disposed of improperly.

ANSWER: River City acknowledges the existence of the alleged statutes.

24. Section 3.160(a) of the Act, 415 ILCS 5/3.160(a) (2018), provides, in pertinent part, the following definition:

- (a) "General construction or demolition debris" means non-hazardous, uncontaminated materials resulting from the construction, remodeling, repair, and demolition of utilities, structures, and roads, limited to the following: bricks, concrete, and other masonry materials; soil; rock; wood, including non-hazardous painted, treated, and coated wood and wood products; wall coverings; plaster; drywall; plumbing fixtures; non-asbestos insulation; roofing shingles and other roof coverings; reclaimed or other asphalt pavement; glass; plastics that are not sealed in a manner that conceals waste; electrical wiring and components containing no hazardous substances; and corrugated cardboard, piping or metals incidental to any of those materials.

* * *

ANSWER: River City acknowledges the existence of the alleged statutes.

25. Section 21 of the Act, 415 ILCS 5/21 (2018), provides, in pertinent part, as follows:
No person shall:

- (a) Cause or allow the open dumping of any waste.

* * *

- (d) Conduct any waste-storage, waste-treatment, or waste-disposal operation:

1. Without a permit granted by the Agency or in violation of any conditions imposed by such permit . . .;
2. In violation of any regulations or standards adopted by the Board under this Act; or

* * *

- (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.

* * *

(p) In violation of subdivision (a) of this Section, cause or allow the open dumping of any waste in a manner which results in any of the following occurrences at the dump site:

(1) litter;

* * *

(4) deposition of waste in standing or flowing waters;

* * *

(7) deposition of:

(i) general construction or demolition debris as defined in Section 3.160(a) of this Act;

* * *

ANSWER: River City acknowledges the existence of the alleged statutes.

26. Respondents caused or allowed general construction or demolition debris and/or other wastes to be hauled from the Source Site and open dumped at the Disposal Site.

ANSWER: River City denies Paragraph 26.

27. By causing or allowing the open dumping of waste at the Disposal Site, Respondents violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2018).

ANSWER: River City denies Paragraph 27.

COUNT II
OPEN DUMPING RESULTING IN LITTER

1-26. Complainant realleges and incorporates herein by reference paragraphs 1 through 26 of Count I as paragraphs 1 through 26 of this Count II.

ANSWER: River City realleges and incorporates herein its answers to the realleged prior paragraphs.

27. By causing or allowing the open dumping of waste in such a manner that resulted in litter at the Disposal Site, Respondents violated Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2018).

ANSWER: River City denies Paragraph 27.

COUNT III
OPEN DUMPING RESULTING IN WASTE IN STANDING OR FLOWING WATER

1-26. Complainant realleges and incorporates herein by reference paragraphs 1 through 26 of Count I as paragraphs 1 through 26 of this Count III.

ANSWER: River City realleges and incorporates herein its answers to the realleged prior paragraphs.

27. By causing or allowing the open dumping of waste in such-a manner that waste was disposed of in standing or flowing waters at the Disposal Site, Respondents violated Section 21(p)(4) of the Act, 415 ILCS 5/21(p)(4) (2018).

ANSWER: River City denies Paragraph 27.

COUNT IV
OPEN DUMPING OF DEMOLITION DEBRIS

1-26. Complainant realleges and incorporates herein by reference paragraphs 1 through 26 of Count I as paragraphs 1 through 26 of this Count IV.

ANSWER: River City realleges and incorporates herein its answers to the realleged prior paragraphs.

27. By causing or allowing the open dumping of waste in such a manner that general construction or demolition debris was disposed of at the Disposal Site, Respondents violated Section 21(p)(7)(i) of the Act, 415 ILCS 5/21(p)(7)(i) (2018).

ANSWER: River City denies Paragraph 27.

COUNT V
DEVELOPING AND OPERATING A LANDFILL WITHOUT A PERMIT

1-26. Complainant realleges and incorporates herein by reference paragraphs 1 through 26 of Count I as paragraphs 1 through 26 of this Count V.

ANSWER: River City realleges and incorporates herein its answers to the realleged prior paragraphs.

27. Section 810.103 of the Board's Solid Waste Disposal Regulations, 35 Ill. Adm. Code 810.103, provides the following definitions:

* * *

“Facility” means a site and all equipment and fixtures on a site used to treat, store or dispose of solid or special wastes. A facility consists of an entire solid or special waste treatment, storage, or disposal operation . . .

* * *

“Landfill” means a unit or part of a facility in or on which waste is placed and accumulated over time for disposal, and which is not a land application unit, a surface impoundment or an underground injection well. For the purposes of this Part and 35 Ill. Adm. Code 811 through 815, landfills include waste piles, as defined in this Section.

* * *

“Solid Waste” means a waste that is defined in this Section as an inert waste, as a putrescible waste, as a chemical waste or as a special waste, and which is not also defined as a hazardous waste pursuant to 35 Ill. Adm. Code 721.

* * *

ANSWER: River City acknowledges the existence of the alleged statutes.

28. Section 812.101 (a) of the Board's Solid Waste Disposal Regulations, 35 Ill. Adm. Code 812.101(a), provides, in pertinent part, as follows:

All persons, except those specifically exempted by Section 21(d) of the Act, shall submit to the Agency an application for a permit to develop and operate a landfill . . .

* * *

ANSWER: River City acknowledges the existence of the alleged statutes.

29. By developing and operating a landfill at the Disposal Site without applying for a permit from Illinois EPA, Respondents violated Section 812.101(a) of the Board's regulations, 35 Ill. Adm. Code 812.101(a).

ANSWER: Paragraph 29 states a legal conclusion to which no answer is required. To the extent that Paragraph 29 alleges facts, those facts are denied.

30. Respondents developed and operated a landfill at the Disposal Site without a permit granted by Illinois EPA, in violation of Section 21(d)(1) of the Act, 415 ILCS /21(d)(1) (2018).

ANSWER: River City denies paragraph 30.

COUNT VI
DEVELOPING AND OPERATING A LANDFILL
IN VIOLATION OF BOARD REGULATION

1-26. Complainant realleges and incorporates herein by reference paragraphs 1 through 26 of Count I as paragraphs 1 through 26 of this Count VI.

ANSWER: River City realleges and incorporates herein its answers to the realleged prior paragraphs.

27-29. Complainant realleges and incorporates herein by reference paragraphs 27 through 29 of Count V as paragraphs 27 through 29 of this Count VI.

ANSWER: River City realleges and incorporates herein its answers to the realleged prior paragraphs.

30. By violating Section 812.101(a) of the Board's Solid Waste Disposal Regulations, 35 Ill. Adm. Code 812.101(a), Respondents conducted a waste-disposal operation at the Disposal Site in violation of a regulation adopted by the Board, and thereby violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2018).

ANSWER: River City denies Paragraph 30.

COUNT VII
WASTE DISPOSAL AT AN IMPROPER SITE

1-26. Complainant realleges and incorporates herein by reference paragraphs 1 through 26 of Count I as paragraphs I through 26 of this Count VII.

ANSWER: River City realleges and incorporates herein its answers to the realleged prior paragraphs.

27-29. Complainant realleges and incorporates herein by reference paragraphs 27 through 29 of Count V as paragraphs 27 through 29 of this Count VII.

ANSWER: River City realleges and incorporates herein its answers to the realleged prior paragraphs.

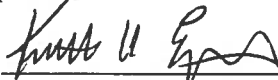
30. The Disposal Site is not a site or facility that meets the requirements of the Act and of the regulations and standards promulgated thereunder.

ANSWER: River City lacks sufficient knowledge to either admit or deny Paragraph 30 but demands strict proof thereof.

31. Respondents disposed of, stored and/or abandoned wastes at the Disposal Site, a site which does not meet the requirements of the Act and regulations, in violation of Section 21(e) of the Act, 415 ILCS 5/21(e) (2018).

ANSWER: River City denies Paragraph 31.

RIVER CITY CONSTRUCTION, LLC,
Respondent

By:  _____

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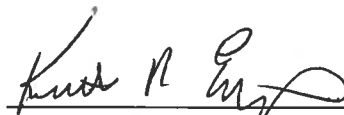
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