

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
 by KWAME RAOUL, Attorney General)
 of the State of Illinois,)
)
 Complainant,)
)
 v.)
)
 WESTERN WATERPROOFING COMPANY,)
 d/b/a WESTERN SPECIALTY CONTRACTORS,)
 a Missouri Corporation; and)
 SPRINGFIELD BRANCH, LLC,)
 a Missouri Corporation.)
)
 Respondents.)

PCB No.

NOTICE OF FILING

TO: See attached service list

PLEASE TAKE NOTICE that I did on December 28, 2020, file with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the following Notice of Filing, Complaint, and Certificate of Service, copies of which are 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.

PEOPLE OF THE STATE OF ILLINOIS
KWAME RAOUL, ATTORNEY GENERAL

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
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BY: s/Emma Hudspath
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Dated: December 28, 2020

Service List

For the Respondents

Western Waterproofing

National Registered Agents, Inc.

208 So LaSalle Street, Suite 814

Chicago, IL 60604

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
 by KWAME RAOUL, Attorney General)
 of the State of Illinois,)
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 Complainant,)
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 v.)
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 WESTERN WATERPROOFING COMPANY,)
 d/b/a WESTERN SPECIALTY)
 CONTRACTORS, a Missouri Corporation; and)
 SPRINGFIELD BRANCH, LLC,)
 a Missouri Corporation.)
)
 Respondents.)

PCB No.

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, complains of Respondents, WESTERN WATERPROOFING COMPANY, INC., d/b/a WESTERN SPECIALTY CONTRACTORS, and SPRINGFIELD BRANCH, LLC, as follows:

COUNT I
FAILURE TO MAINTAIN PERMIT FOR
HAZARDOUS WASTE MANAGEMENT FACILITY

1. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS by KWAME RAOUL, Attorney General of the State of Illinois, on his 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 WESTERN WATERPROOFING COMPANY, INC., d/b/a WESTERN SPECIALTY CONTRACTORS, and SPRINGFIELD BRANCH, LLC.

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 (2018), and charged, *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board.

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 (2018), and charged, *inter alia*, with the duty of promulgating standards and regulations under the Act.

4. This Complaint is brought pursuant to Section 31 of the Act, 415 ILCS 5/31 (2018), after providing Respondents, Western Waterproofing Company, Inc., d/b/a Western Specialty Contractors, (“Western Waterproofing”) and Springfield Branch, LLC, (“Springfield Branch”) with notice and opportunity for a meeting with Illinois EPA.

5. Respondent Western Waterproofing is a Missouri corporation authorized to transact business in the State of Illinois, which specializes in the restoration and preservation of masonry and concrete. It conducts business at a facility located at 2501 Colt Road, Springfield, Sangamon County, Illinois (the “facility”), which is owned by Springfield Branch, a Missouri corporation authorized to transact business in the State of Illinois.

6. On December 22, 2017, Western Waterproofing notified the United States Environmental Protection Agency (“USEPA”) that it was a small quantity generator of hazardous waste.

7. Western Waterproofing has never been granted a permit by Illinois EPA for the storage or disposal of hazardous waste.

8. On January 9, 2019, Illinois EPA performed a Compliance Evaluation Inspection at the facility to evaluate Western Waterproofing’s generator status and compliance with applicable Resource Conservation and Recovery Act (“RCRA”)

regulatory requirements. During the inspection, Illinois EPA was accompanied by a representative of Western Waterproofing, the branch manager of the facility.

9. On January 9, 2019, Illinois EPA observed the central accumulation area located outside of the facility's buildings where the representative indicated that wastes were being placed after being brought back from off-site jobs. The central accumulation area had no overhead cover to protect the containers from the elements and no signage to identify the area as a hazardous waste storage area. Illinois EPA observed approximately sixteen (16) 55-gallon drums and twelve (12) 5-gallon buckets of hazardous waste consisting of paints, primers, and detergents, falling under D001 and D002 classifications. Both hazardous and non-hazardous wastes were kept in the same area without any distinction as to the type of waste, and all had original product labels, but only one had a hazardous waste sticker. Illinois EPA did not observe accumulation start dates on any of the containers, and two containers did not have lids.

10. On January 9, 2019, Illinois EPA observed the facility's warehouse. Western Waterproofing's representative indicated that there was no emergency alarm system or capability to summon emergency help. The phone in the warehouse was unable to dial out, there were no emergency phone numbers posted next to the telephone, and there were no contingency plans available for Illinois EPA to review.

11. On January 9, 2019, Illinois EPA conducted a manifest review at the facility. Manifests were only available for 2018 and the representative lacked any information about discarded materials and the process that created them.

12. Section 21(f)(1)-(2) of the Act, 415 ILCS 5/21(f)(1)-(2) (2018), provides as follows:

No person shall:

- (f) Conduct any hazardous waste-storage, hazardous waste-treatment or hazardous waste-disposal operation:
 - (1) without a RCRA permit for the site issued by the Agency under subsection (d) of Section 39 of this Act, or in violation of any condition imposed by such permit, including periodic reports and full access to adequate records and the inspection of facilities, as may be necessary to assure compliance with this Act and with regulations and standards adopted thereunder; or
 - (2) in violation of any regulations or standards adopted by the Board under this Act.

* * *

13. Section 3.315 of the Act, 415 ILCS 5/3.315 (2018) 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.

14. Respondent Western Waterproofing is a corporation and therefore is a “person” as defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2018).

15. Respondent Springfield Branch is a corporation and therefore is a “person” as defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2018).

16. Section 3.460 of the Act, 415 ILCS 5/3.460 (2018), provides as follows:

“Site” means any location, place, tract of land, and facilities, including but not limited to buildings, and improvements used for purposes subject to regulation or control by this Act or regulations thereunder.

17. The facility is a “site” as defined in Section 3.460 of the Act, 415 ILCS 5/3.460 (2018), subject to the regulation and control of the Act and regulations thereunder.

18. Section 3.185 of the Act, 415 ILCS 5/3.185 (2018), provides as follows:

“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.

19. Section 3.480 of the Act, 415 ILCS 5/3.480 (2018), provides as follows:

“Storage” means the containment of waste, either on a temporary basis or for a period of years, in such a manner as not to constitute a disposal.

20. Section 3.535 of the Act, 415 ILCS 5/3.535 (2016), provides as follows:

“Waste” means any garbage . . . 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. . .

21. Section 3.220 of the Act, 415 ILCS 5/3.220 (2018), 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.

22. Section 3.370 of the Act, 415 ILCS 5/3.370 (2018), provides the following definition:

"RCRA Permit" means a permit issued by the Agency pursuant to authorization received by the Agency from the United States Environmental Protection Agency under Subtitle C of the Resource Conservation and Recovery Act of 1976, (P.L. 94-580) (RCRA) and which meets the requirements of Section 3005 of RCRA and of this Act.

23. Sections 703.121(a)–(b) of the Board Regulations, 35 Ill. Adm. Code 703.121(a)–(b), provide as follows:

- (a) No person may conduct any hazardous waste storage, hazardous waste treatment, or hazardous waste disposal operation as follows:
 - (1) Without a RCRA permit for the HWM (hazardous waste management) facility; or
 - (2) In violation of any condition imposed by a RCRA permit.
- (b) An owner or operator of a HWM unit must have permits during the active life (including the closure period) of the unit. An owner or operator of a surface impoundment, landfill, land treatment unit or a waste pile unit that received wastes after July 26, 1982, or that certified closure (according to 35 Ill. Adm. Code 725.215) after January 26, 1983, must have a post-closure care permit, unless it demonstrates closure by removal or decontamination, as provided under Sections 703.159 and 703.160, or obtains enforceable documents containing alternative requirements, as provided under Section 703.161. If a post-closure care permit is required, the permit must address applicable 35 Ill. Adm. Code 724 groundwater monitoring, unsaturated zone monitoring, corrective action, and post-closure care requirements.

24. Section 702.110 of the Board Regulations, 35 Ill. Adm. Code 702.110, provides, in pertinent part, the following definitions:

"Person" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agency, or assigns.

"Hazardous waste" (RCRA) means a hazardous waste as defined in 35 Ill. Adm. Code 721.103.

"Generator" (RCRA) means any person, by site location, whose act or process produces hazardous waste.

"Storage" (RCRA) means the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.

"RCRA permit" (RCRA) means a permit required pursuant to Section 21(f) of the Act [415 ILCS 5/21(f)].

"Hazardous waste management facility" or "HWM facility" (RCRA) means all contiguous land and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units (for example, one or more landfills, surface impoundments, or combinations of them).

"Owner or operator" means the owner or operator of any facility or activity subject to regulation under the RCRA... program.

"Permit" means an authorization, license, or equivalent control document issued to implement the requirements of this Part and 35 Ill. Adm. Code 703, 704, and 705. "Permit" includes RCRA permit by rule (35 Ill. Adm. Code 703.141), ...

"Small quantity generator" or "SQG" means a generator that generates the following amounts of material in a calendar month:

Greater than 100 kg (220 lbs) but less than 1,000 kilograms (2,200 lbs) of non-acute hazardous waste;
Less than or equal to 1 kg (2.2 lbs) of acute hazardous waste listed in 35 Ill Adm. Code 721.131 or 721.133(e);
and
Less than or equal to 100 kg (220 lbs) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in 35 Ill Adm. Code 721.131 or 721.133(e).

25. Beginning prior to January 9, 2019, and on dates better known to Respondents, Respondents disposed of, stored, and/or abandoned wastes at the facility.
26. As a result of Respondents' operations at the facility, Respondents were

and are each a “person” conducting a “hazardous waste-storage operation” without a “RCRA permit”, as those terms are used in Section 21(f)(1) of the Act, 415 ILCS 5/21(f)(1) (2018), and as defined in Section 702.110 of the Board Regulations, 35 Ill. Adm. Code 702.110.

27. As a result of Respondents’ operations at the facility, Respondents are each the “owner or operator” of a “HWM” unit at the facility, as those terms are defined in Section 702.110 of the Board Regulations, 35 Ill. Adm. Code 702.110.

28. By conducting a hazardous waste-storage operation at the facility without a RCRA permit, Respondents violated Section 21(f)(1) of the Act, 415 ILCS 5/21(f)(1) (2018), and Sections 703.121(a)–(b) of the Board Regulations, 35 Ill. Adm. Code 703.121(a)–(b).

29. By violating Sections 703.121(a)–(b) of the Board Regulations, 35 Ill. Adm. Code 703.121(a)–(b), Respondents conducted a hazardous waste-storage operation in violation of Board Regulations, and thereby violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2018).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondents, WESTERN WATERPROOFING COMPANY, INC, d/b/a WESTERN SPECIALTY CONTRACTORS, and SPRINGFIELD BRANCH, LLC, on Count I:

A. Authorizing a hearing in this matter at which time Respondents will be required to answer the allegations herein;

B. Finding that Respondents have violated Section 21(f)(1)-(2) of the Act, 415 ILCS 5/21(f)(1)-(2) (2018), and Section 703.121 of the Board Regulations, 35 Ill. Adm. Code 703.121;

C. Ordering Respondents to cease and desist from further violations of Sections 21(f)(1)-(2) of the Act, 415 ILCS 5/21(f)(1)-(2) (2018), and Section 703.121 of the Board Regulations, 35 Ill. Adm. Code 703.121;

D. Assessing against Respondents a civil penalty of up to \$25,000.00 for each day of violation of Sections 21(f)(1)-(2) of the Act, 415 ILCS 5/21(f)(1)-(2) (2018), and Section 703.121 of the Board Regulations, 35 Ill. Adm. Code 703.121, pursuant to Section 42(b)(3) of the Act, 415 ILCS 5/42(b)(3) (2018);

E. Ordering Respondents to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action; and

F. Ordering such other and further relief as the Board deems appropriate and just.

COUNT II
FAILURE TO CONDUCT HAZARDOUS WASTE DETERMINATIONS

1. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS by KWAME RAOUL, Attorney General of the State of Illinois, on his 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 Respondent WESTERN WATERPROOFING COMPANY, INC., d/b/a WESTERN SPECIALTY CONTRACTORS.

2-29. Petitioner realleges and incorporates by reference herein paragraphs 2 through 29 of Count I as paragraphs 2 through 29 of this Count II.

30. Section 21(i) of the Act, 415 ILCS 5/21(i), provides as follows:

No person shall:

- (i) Conduct any process or engage in any act which produces hazardous waste in violation of any regulations or standards adopted by the Board under subsections (a) and (c) of Section 22.4 of this Act.

31. Sections 22.4(a) and (c) of the Act, 415 ILCS 5/22.4(a),(c), provides as follows:

- (a) In accordance with Section 7.2, the Board shall adopt regulations which are identical in substance to federal regulations or amendments thereto promulgated by the Administrator of the United States Environmental Protection Agency to implement Sections 3001, 3002, 3003, 3004, 3005, of the Resource Conservation and Recovery Act of 1976. The Board may consolidate into a single rulemaking under this Section all such federal regulations adopted within a period of time not to exceed 6 months. The provisions and requirements of Title VII of this Act shall not apply to rules adopted under this subsection. Section 5-35 of the Illinois Administrative Procedure Act relating to procedures for this rulemaking shall not apply to rules adopted under this subsection.

* * *

- (c) Notwithstanding subsection (a) of this Section, the Board may adopt additional regulations identifying the characteristics of hazardous waste and additional regulations listing hazardous waste....

32. Section 722.111 of the Board Regulations, 35 Ill. Adm. Code 722.111, provides:

A person that generates a solid waste, as defined in 35 Ill. Adm. Code 721.102, must determine if that waste is a hazardous waste using the following method:

- (a) The person should first determine if the waste is excluded from regulation under 35 Ill. Adm. Code 721.104.
- (b) The person should then determine if the waste is listed as a hazardous waste in Subpart D of 35 Ill. Adm. Code 721.

BOARD NOTE: Even if a waste is listed as a hazardous waste, the generator still has an opportunity under 35 Ill. Adm. Code 720.122 to demonstrate that the waste from the generator's particular facility or operation is not a hazardous waste.

- (c) For purposes of compliance with 35 Ill. Adm. Code 728, or if the waste is not listed as a hazardous waste in Subpart D of 35 Ill. Adm. Code 721, the generator must then determine whether the waste is identified in Subpart C of 35 Ill. Adm. Code 721 by either of the following methods:
 - (1) Testing the waste according to the methods set forth in Subpart C of 35 Ill. Adm. Code 721, or according to an equivalent method approved by the Board under 35 Ill. Adm. Code 720.121; or
 - (2) Applying knowledge of the hazard characteristic of the waste in light of the materials or processes used.
- (d) If the generator determines that the waste is hazardous, the generator must refer to 35 Ill. Adm. Code 721, 724 through 728, and 733 for possible exclusions or restrictions pertaining to the management of the specific waste.

33. Section 721.102 of the Board Regulations, 35 Ill. Adm. Code 721.102, provides:

- a) Solid waste.
 - 1) A solid waste is any discarded material that is not excluded pursuant to Section 721.104(a) or that is not excluded pursuant to 35 Ill. Adm. Code 720.130 and 720.131 or 35 Ill. Adm. Code 720.130 and 720.134.
 - 2) Discarded material.
 - A) A discarded material is any material that is described as follows:
 - i) It is abandoned, as described in subsection (b);
 - ii) It is recycled, as described in subsection (c);

b) A material is a solid waste if it is abandoned in one of the following ways:

1) It is disposed of;

3) It is accumulated, stored, or treated (but not recycled) before or in lieu of being abandoned by being disposed of, burned, or incinerated;

c) A material is a solid waste if it is recycled- or accumulated, stored, or treated before recycling- as specified in subsections (c)(1) through (c)(4), if one of the following occurs with regard to the material:

1) The material is used in a manner constituting disposal....

34. Section 722.140(c) of the Board Regulations, 35 Ill. Adm. Code 722.140, requires recordkeeping of hazardous waste determinations, in that it provides as follows:

(c) Section 722.111(f) requires documenting hazardous waste determinations.

35. Section 722.111(f) of the Board Regulations, 35 Ill Adm. Code 722.111(f), provides, in pertinent part, as follows:

(f) A SQG or LQG must maintain records supporting its hazardous waste determinations, including records that identify whether a solid waste is a hazardous waste, as defined by 35 Ill. Adm. Code 721.103. Records must be maintained for at least three years from the date that the waste was last sent to on-site or off-site treatment, storage, or disposal. These records must comprise the generator's knowledge of the waste and support the generator's determination.... The records must include, but are not limited to, the following types of information: the results of any tests, sampling, waste analyses, or other determinations made in accordance with this Section; records documenting the tests, sampling, and analytical methods used to demonstrate the validity and

relevance of such tests; records consulted in order to determine the process by which the waste was generated, the composition of the waste, and the properties of the waste; and records which explain the knowledge basis for the generator's determination, as described at subsection (d)(1).

36. The waste paints, primers, and detergents present at the facility during the January 9, 2019 inspection were generated from off-site jobs conducted by Western Waterproofing.

37. The paints, primers, and detergents were accumulated and stored at the facility before being disposed of, and were therefore abandoned as that term is defined in Section 721.103(b) of the Board Regulations, 35 Ill. Adm. Code 721.102(b).

38. Because the waste paints, primers, and detergents were abandoned at the facility, they were therefore discarded material as that term is defined by Section 721.102(a)(2) of the Board Regulations, 35 Ill. Adm. Code 721.102(a)(2).

39. Because the paints, primers, and detergents were discarded material, they were therefore solid waste as that term is defined by Section 721.102(a)(1) of the Board Regulations, 35 Ill. Adm. Code 721.102(a)(1).

40. Beginning prior to January 9, 2019, and at times better known to Western Waterproofing, Western Waterproofing failed to conduct hazardous waste determinations on the wastes it generated and stored at the facility.

41. By failing to conduct hazardous waste determinations, Western Waterproofing violated Section 722.111 of the Board Regulations, 35 Ill. Adm. Code 722.111.

42. By violating Section 722.111 of the Board Regulations, 35 Ill. Adm. Code 722.111, Western Waterproofing violated Section 21(i) of the Act, 415 ILCS 5/21(i) (2018).

PRAYER FOR RELIEF

WHEREFORE, Petitioner, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that Board enter an order against the Respondent, WESTERN WATERPROOFING COMPANY, INC, d/b/a WESTERN SPECIALTY CONTRACTORS, on Count II:

A. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;

B. Finding that Respondent has violated Section 21(i) of the Act, 415 ILCS 5/21(i) (2018), and Section 722.111 of the Board Regulations, 35 Ill. Adm. Code 722.111;

C. Ordering Respondent to cease and desist from further violations of Section 21(i) of the Act, 415 ILCS 5/21(i) (2018), and Section 722.111 of the Board Regulations, 35 Ill. Adm. Code 722.111;

D. Assessing against Respondent a civil penalty of up to \$25,000.00 for each day of violation of Section 21(i) of the Act, 415 ILCS 5/21(i) (2018), and Section 722.111 of the Board Regulations, 35 Ill. Adm. Code 722.111, pursuant to Section 42(b)(3) of the Act, 415 ILCS 5/42(b)(3) (2018);

E. Ordering Respondent to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action; and

F. Ordering such other and further relief as the Board deems appropriate and just.

COUNT III
FAILURE TO CONDUCT SPECIAL WASTE DETERMINATIONS

1. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS by KWAME RAOUL, Attorney General of the State of Illinois, on his 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 Respondent WESTERN WATERPROOFING COMPANY, INC., d/b/a WESTERN SPECIALTY CONTRACTORS.

2-30. Petitioner realleges and incorporates by reference herein paragraphs 2 through 29 of Count I and paragraph 36 of Count II as paragraphs 2 through 30 of this Count III.

31. Section 21(e) of the Act, 415 ILCS 5/21(e) (2018), provides, in pertinent part, as follows:

No person shall:

(e) Dispose, treat, store or abandon any waste . . . except at a site or facility which meets the requirements of this Act and of regulations and standards thereunder.

32. Section 808.121(a) of the Board Regulations, 35 Ill. Adm. Code 808.121(a), provides, in pertinent part, as follows:

(a) Each person who generates waste shall determine whether the waste is a special waste.

* * *

33. Section 808.110 of the Board Regulations, 35 Ill. Adm. Code 808.110, provides the following definition:

“Special waste” means any hazardous waste, and any industrial process waste or pollution control waste which has not been declassified pursuant to Section 808.245. (Section 3.45 of the Act.)

34. Beginning prior to January 9, 2019, and at times better known to Western Waterproofing, Western Waterproofing failed to conduct special waste determinations on the wastes it generated and stored at the facility.

35. By failing to conduct special waste determinations, Western Waterproofing violated Section 808.121(a) of the Board Regulations, 35 Ill. Adm. Code 808.121(a).

36. By violating Section 808.121(a) of the Board Regulations, 35 Ill. Adm. Code 808.121(a), Western Waterproofing violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2018).

PRAYER FOR RELIEF

WHEREFORE, Petitioner, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that Board enter an order against the Respondent, WESTERN WATERPROOFING COMPANY, INC, d/b/a WESTERN SPECIALTY CONTRACTORS, on Count III:

A. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;

B. Finding that Respondent has violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2018), and Section 808.121(a) of the Board Regulations, 35 Ill. Adm. Code 808.121(a);

C. Ordering Respondent to cease and desist from further violations of Section 21(e) of the Act, 415 ILCS 5/21(e) (2018), and Section 808.121(a) of the Board Regulations, 35 Ill. Adm. Code 808.121(a);

D. Assessing against Respondent a civil penalty not to exceed \$50,000.00 for each violation of Section 21(e) of the Act, 415 ILCS 5/21(e) (2018), and Section 808.121(a) of the Board Regulations, 35 Ill. Adm. Code 808.121(a), with an additional

penalty not to exceed \$10,000.00 for each day of violation, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2018);

E. Ordering Respondent to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action; and

F. Ordering such other and further relief as the Board deems appropriate and just.

Respectfully Submitted,

PEOPLE OF THE STATE OF ILLINOIS,
by KWAME RAOUL, Attorney
General of the State of Illinois,

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

By: /s/ Andrew Armstrong

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CERTIFICATE OF SERVICE

I, Emma Hudspath, an Assistant Attorney General, certify that on the 28th day of December, 2020, I caused to be served via certified mail, return receipt requested as indicated, and by regular mail as indicated, a copy of the foregoing Notice of Filing, Complaint, and Certificate of Service, to the following:

Western Waterproofing
National Registered Agents, Inc.
208 So LaSalle Street, Suite 814
Chicago, IL 60604

Certified Mail – Return Receipt Requested

s/Emma Hudspath
Emma Hudspath
Assistant Attorney General
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