

ILLINOIS POLLUTION CONTROL BOARD
June 1, 2023

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 23-110
) (Enforcement - Water)
CJ MASONRY BRICK LLC, an Illinois)
limited liability company,)
)
Respondent.)

ORDER OF THE BOARD (by M. Gibson):

On April 12, 2023, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a four-count complaint against CJ Masonry Brick LLC (CJ Masonry). The complaint concerns a diesel spill caused when a pickup truck belonging to CJ Masonry was involved in a traffic accident and drove to a restaurant parking lot located at 100 Lageschulte Street in Barrington, Lake County (spill site). The complaint also concerns the discharge of diesel fuel from the ground at the spill site into a catch basin that drains to the Village of Barrington sewer system, which discharges into a tributary to Flint Creek (discharge site). The parties now seek to settle without a hearing. For the reasons below, the Board accepts the parties' stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2020)), the Attorney General and the State's Attorneys may bring actions before the Board on behalf of the People to enforce Illinois' environmental requirements. *See* 415 ILCS 5/31 (2020); 35 Ill. Adm. Code 103. In this case, the People allege that CJ Masonry violated Sections 12(a) and 12(d) of the Act (415 ILCS 5/12(a), (d) (2020)) and Sections 302.203 and 304.106 of the Board Water Pollution Regulations (35 Ill. Adm. Code 302.203, 304.106). The People allege that CJ Masonry committed these violations by causing, threatening, or allowing the discharge of a contaminant into the environment causing or tending to cause water pollution in Illinois; allowing diesel fuel to be deposited upon the land at the spill site in such a manner that the fuel could and did enter the storm sewer and tributary to Flint Creek, a water of the State of Illinois, creating a water pollution hazard; causing or allowing an offensive discharge in violation of the Board Water Pollution Regulations; and creating offensive conditions in a water of the State of Illinois.

On April 12, 2023, simultaneously with the People's complaint, the People and CJ Masonry 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) (2020)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2020)), 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 the *Lake County Daily Herald* on May 5, 2023. 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) (2020); 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. *See* 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 CJ Masonry's 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) (2020)), which bears on the reasonableness of the circumstances surrounding the alleged violations. CJ Masonry does not affirmatively admit the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2020)), which may mitigate or aggravate the civil penalty amount. Under the proposed settlement, CJ Masonry agrees to pay a civil penalty of \$7,500 within 30 days after the date of this order. The People and CJ Masonry 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.

ORDER

1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. CJ Masonry must pay a civil penalty of \$7,500 no later than July 3, 2023, which is the first business day following the 30th day after the date of this order. CJ Masonry 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 name and case number must appear on the certified check or money order.
3. CJ Masonry 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

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

Molly Kordas
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office

69 W. Washington Street, 18th Floor
Chicago, Illinois 60602

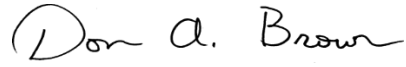
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2020)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2020)).
5. CJ Masonry must cease and desist from future violations 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) (2020); *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. Filing a motion asking that the Board reconsider this final order is not a prerequisite to appealing the order. 35 Ill. Adm. Code 101.902.

Names and Addresses for Receiving Service of Any Petition for Review Filed with the Appellate Court	
Parties	Board
Illinois Attorney General's Office Attn: Molly Kordas Assistant Attorney General Environmental Bureau 69 W. Washington Street, 18th Floor Chicago, Illinois 60602 Molly.Kordas@ilag.gov	Illinois Pollution Control Board Attn: Don A. Brown, Clerk 60 E. Van Buren St., Suite 630 Chicago, Illinois 60605 don.brown@illinois.gov
CJ Masonry Brick LLC Attn: Christian J. Garcia 521 Union Street St. Charles, Illinois 60174 Christian J. Garcia 106 E Briarwood Drive Streamwood, Illinois 60107	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on June 1, 2023, by a vote of 3-0.

A handwritten signature in cursive script that reads "Don A. Brown". The signature is written in black ink and is positioned above the printed name.

Don A. Brown, Clerk
Illinois Pollution Control Board