

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

| | | |
|---|---|----------------|
| PEOPLE OF THE STATE OF ILLINOIS, |) | |
| |) | |
| Complainant, |) | |
| |) | |
| v. |) | PCB NO. |
| |) | |
| JCC SERVICE, INC. f/k/a |) | |
| JOHNSON PAINTING AND SANDBLASTING, |) | |
| An Iowa corporation, |) | |
| |) | |
| Respondent. |) | |

REVISED NOTICE OF FILING

To: Attached Service List

PLEASE TAKE NOTICE that on September 26, 2018 I filed with 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. 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.

FURTHER, please take note 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

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

BY: s/Christina L. Nannini
CHRISTINA L. NANNINI
Assistant Attorney General

SERVICE LIST:

JCC Service, Inc.
c/o L & W Agents Inc.
3551 7th Street
Suite 110
Moline, IL 61265

CERTIFICATE OF SERVICE

I hereby certify that on October 3, 2018, via First Class Mail, Certified, Return Receipt, with postage thereon fully prepaid and by depositing in a United States Post Office Box, I mailed a true and correct copy of the Notice of Filing and Complaint upon the persons listed on the Service List.

s/Christina L. Nannini
CHRISTINA L. NANNINI, #6327367
Assistant Attorney General
Environmental Bureau
500 South Second Street
Springfield, Illinois 62701
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
 by LISA MADIGAN, Attorney General)
 of the State of Illinois,)
)
 Complainant,)
)
 v.)
)
 JCC SERVICE, INC., f/k/a)
 JOHNSON PAINTING AND SANDBLASTING,)
 an Iowa corporation,)
)
 Respondent.)

PCB No. 2018-

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, JCC SERVICE, INC., an Iowa corporation, as follows:

COUNT I
WASTE DETERMINATION VIOLATIONS

1. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, 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 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 (2016), 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 (2016), after providing Respondent, JCC Service, Inc., with notice and the opportunity for a meeting with the Illinois EPA.

5. Respondent JCC Service, Inc. ("JCC" or "Respondent"), formerly known as Johnson Painting and Sandblasting, is an Iowa corporation, authorized and in good standing to conduct business in the State of Illinois. The registered agent for JCC is L & W Agents Inc., 3551 7th St. Suite 110, Moline, Illinois 61265.

6. JCC operates a metal fabrications business located at 2750 Morton Drive, East Moline, Illinois ("site").

7. JCC's operations at the site include media blasting of new structural steel to remove mill scale and rust to provide a clean working surface for fabricating and painting.

8. On April 11, 2017, the Illinois EPA received an anonymous citizen complaint of hazardous waste violations at JCC's facility.

9. On May 3, 2017, the Illinois EPA conducted a Resource Conservation and Recovery Act ("RCRA") Citizen Complaint Investigation ("CCI") and Compliance Evaluation Inspection ("CEI") at the site.

10. JCC's paint shop generates spent solvent waste from paint operations and the cleaning of paint spray guns and associated equipment with Methyl Ethyl Ketone.

11. JCC generates hazardous waste through a paint solvent recovery process. The Methyl Ethyl Ketone solvent used by JCC to clean the paint spray guns contains 90-100% Methyl Ethyl Ketone by volume prior to use.

12. JCC recycles the spent solvent in an on-site Recycling Services, Inc. 23 (RSI-23) Solvent Recycling System. At the time of the May 2, 2017 inspection, the RSI-23 had been out

of service since March 7, 2017 and JCC was awaiting replacement by a new solvent recycling system.

13. On May 2, 2017, approximately 6.5 gallons of waste paint-related material was observed stored at the site.

14. JCC generates approximately 24 gallons of still bottoms per month from the recycling and recovery of spent solvents.

15. JCC had not shipped any waste off site for disposal as hazardous waste during the 3 years preceding the Illinois EPA's inspection on May 2, 2017.

16. On dates better known by JCC, and continuing through at least Illinois EPA's May 2, 2017 inspection, JCC did not determine whether the still bottoms it generates are a hazardous or special waste, and disposed of the still bottoms as general refuse in an on-site, non-hazardous waste dumpster provided by Republic Services.

17. The contents of the Republic Services dumpsters are taken to Upper Rock Island County Landfill for disposal. The Upper Rock Island Landfill is not permitted to accept hazardous waste.

18. The Resource Conservation and Recovery Act, 42 U.S.C. § 6901, *et seq.* and its implementing regulations at 40 C.F.R. Parts 240-282 ("RCRA"), provide for the comprehensive regulation of hazardous waste, and are administered in the State of Illinois by the Illinois EPA.

19. Section 3.315 of the Act, 415 ILCS 5/3.315 (2016), 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.

20. JCC is a "person" as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2016).

21. Section 702.110 of the Board's Waste Regulations, 35 Ill. Adm. Code 702.110, provides, in pertinent part, as follows:

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

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

"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).

"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.

"Treatment" (RCRA) means any method, technique, process, including neutralization, designed to change the physical, chemical, or biological character or composition of any "hazardous waste" so as to neutralize such wastes, or so as to recover energy or material resources from the waste, or so as to render such wastes non-hazardous or less hazardous; safer to transport, store, or dispose of; or amenable for recovery, amenable for storage, or reduced in volume.

22. Section 721.103 of the Board Regulations, 35 Ill. Adm. Code 721.103, provides, in pertinent part, as follows:

a) A solid waste, as defined in Section 721.102, is a hazardous waste if the following is true of the waste:

2) It meets any of the following criteria:

D) It is a mixture of solid waste and one or more hazardous wastes listed in Subpart D of this Part and has not been excluded from this subsection (a)(2) pursuant to 35 Ill. Adm. Code 720.120 and 720.122 or subsection (g) or (h) . . .

23. Section 721.131 of the Board regulations, 35 Ill. Adm. Code 721.131, provides, in pertinent part, as follows:

- a) The following solid wastes are listed hazardous wastes from non-specific sources, unless they are excluded under 35 Ill. Adm. Code 720.120 and 720.122 and listed in Appendix I of this Part.

| USEPA Hazardous Waste No. | Industry and Hazardous Waste | Hazard Code |
|---------------------------------|---|----------------|
| *** | *** | *** |
| F005 | The following spent non-halogenated solvents: toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, benzene, 2-ethoxyethanol, and 2-nitropropane; all spent solvent mixtures and blends, containing, before use, a total of ten percent or more (by volume) of one or more of the above non-halogenated solvents or those solvents listed in F001, F002, or F004; and still bottoms from the recovery of these spent solvents and spent solvent mixtures. | (I, T) |

24. Section 3.220 of the Act, 415 ILCS 5/3.220 (2016), provides as follows:

“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.

25. The still bottoms that JCC generates from the recovery of spent solvent constitute "hazardous waste," as that term is defined in Section 721.131 of the Board regulations, 35 Ill.

Adm. Code 721.131, and Section 3.220 of the Act, 415 ILCS 5/3.220 (2016).

26. Section 3.480 of the Act, 415 ILCS 5/3.480 (2016), 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 disposal.

27. JCC conducts hazardous waste "storage," as that term is defined in Section 702.110 of the Board Regulations, 35 Ill. Adm. Code 702.110, and Section 3.480 of the Act, 415 ILCS 5/3.480 (2016).

28. Section 3.505 of the Act, 415 ILCS 5/3.505 (2016), provides as follows:

"Treatment" means any method, technique or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any waste so as to neutralize it or render it nonhazardous, safer for transport, amenable for recovery, amendable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous.

29. JCC conducts hazardous waste "treatment," using its solvent recovery system, as that term is defined in Section 702.110 of the Board Regulations, 35 Ill. Adm. Code 702.110 and Section 3.505 of the Act, 415 ILCS 5/3.505 (2016).

30. JCC is a "generator" of "hazardous waste," and operates a "hazardous waste management facility," as those terms are defined in Sections 702.110 and 721.103 of the Board Regulations, 35 Ill. Adm. Code 702.110 and 721.103, and Section 3.220 of the Act, 415 ILCS 5/3.220 (2016).

31. Section 3.475 of the Act, 415 ILCS 5/3.475 (2016), provides, in pertinent part, as follows:

"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 . . .

32. Section 808.110 of the Board regulations, 35 Ill. Adm. Code 808.110, provides, in pertinent part, as follows:

"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.)

BOARD NOTE: The definition of "hazardous waste" at Section 3.15 of the Act differs from the definition of the same term as used in this Part. The Board intends that the Section 3.15 definition apply to this Part only for the purposes of this definition of special waste. The Board intends that the definition given in this Section apply to all other appearances for the term "hazardous waste" throughout this Part.

33. The still bottoms that JCC generates from the recovery of spent solvent constitute "special waste," as that term is defined in Section 808.110 of the Board Regulations, 35 Ill. Adm. Code 808.110, and Section 3.475 of the Act, 415 ILCS 5/3.475 (2016).

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

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.

35. 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 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.

36. Section 728.107(a)(1) of the Board regulations, 35 Ill. Adm. Code 728.107(a)(1),

provides:

- a) Requirements for Generators
 - 1) A generator of a hazardous waste must determine if the waste has to be treated before it can be land disposed. This is done by determining if the hazardous waste meets the treatment standards in Section 728.140, 728.145, or 728.149. This determination can be made concurrently with the hazardous waste determination required in 35 Ill. Adm. Code 722.111, in either of two ways: testing the waste or using knowledge of the waste. If the generator tests the waste, testing determines the total concentration of hazardous constituents or the concentration of hazardous constituents in an extract of the waste obtained using Method 1311 (Toxicity Characteristic Leaching Procedure) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number

EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a), depending on whether the treatment standard for the waste is expressed as a total concentration or concentration of hazardous constituent in the waste extract. (Alternatively, the generator must send the waste to a RCRA-permitted hazardous waste treatment facility, where the waste treatment facility must comply with the requirements of 35 Ill. Adm. Code 724.113 and subsection (b).) In addition, some hazardous wastes must be treated by particular treatment methods before they can be land disposed and some soils are contaminated by such hazardous wastes. These treatment standards are also found in Section 728.140 and Table T of this Part, and are described in detail in Table C of this Part. These wastes and soils contaminated with such wastes do not need to be tested (however, if they are in a waste mixture, other wastes with concentration level treatment standards must be tested). If a generator determines that it is managing a waste or soil contaminated with a waste that displays a hazardous characteristic of ignitability, corrosivity, reactivity, or toxicity, the generator must comply with the special requirements of Section 728.109 in addition to any applicable requirements in this Section.

37. Section 808.121(a) of the Board regulations, 35 Ill. Adm. Code 808.121(a), provides:

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

BOARD NOTE: 35 Ill. Adm. Code 722 requires the person to also determine if the waste is a hazardous waste.

38. JCC failed to make a waste determination for the still bottom waste prior to placing the still bottoms in the general refuse dumpster for disposal at Upper Rock Island County Landfill.

39. By failing to determine if the still bottoms it generates are a hazardous waste, JCC violated Section 722.111 of the Board regulations, 35 Ill. Adm. Code 722.111, and thereby violated Section 21(i) of the Act, 415 ILCS 5/21(i) (2016).

40. By failing to determine whether the waste still bottoms generated by its solvent recycler required treatment before being land disposed, JCC violated Section 728.107(a)(1) of the Board regulations, 35 Ill. Adm. Code 728.107(a)(1), and thereby violated Section 21(i) of the Act, 415 ILCS 5/21(i) (2016).

41. By failing to determine whether the waste it generated was a special waste, JCC violated Section 808.121(a) of the Board regulations, 35 Ill. Adm. Code 808.121(a), and thereby violated Section 21(i) of the Act, 415 ILCS 5/21(i) (2016).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against Respondent, JCC SERVICE, INC.:

A. Finding that Respondent has violated Section 21(i) of the Act, 415 ILCS 5/21(i) (2016), and Sections 722.111, 728.107(a)(1), and 808.121(a) of the Board regulations, 35 Ill. Adm. Code 722.111, 728.107(a)(1), and 808.121(a);

B. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;

C. Pursuant to Section 42(b)(3) of the Act, 415 ILCS 5/42(b)(3) (2016), imposing upon Respondent for violating Section 21(i) of the Act, 415 ILCS 5/21(i) (2016), and Sections 722.111, 728.107(a)(1), and 808.121(a) of the Board regulations, 35 Ill. Adm. Code 722.111, 728.107(a)(1), and 808.121(a), a civil penalty of up to \$25,000.00 per day of violation; and

D. Granting such other relief as the Board may deem appropriate.

COUNT II
HAZARDOUS WASTE MANIFEST VIOLATIONS

1-38. Complainant adopts and incorporates by reference herein paragraphs 1 through 38 of Count I as paragraphs 1 through 38 of this Count II.

39. JCC did not properly prepare a manifest form in order to transport the still bottoms.

40. Section 722.120(a) of the Board regulations, 35 Ill. Adm. Code 722.120(a), provides:

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 of 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).

2) This subsection (a)(2) corresponds with 40 CFR 262.20(a)(2), an applicability statement that became obsolete for the purposes of the Illinois rules on September 6, 2006. This statement maintains structural parity with the corresponding federal regulations.

3) E-Manifest. In lieu of using the manifest form specified in subsection (a)(1) of this Section, a person required to prepare a manifest under subsection (a)(1) of this Section may prepare and use an e-Manifest provided that the person complies with the following requirements:

A) Section 722.124 for use of e-Manifests; and

B) 40 CFR 3.10, incorporated by reference in 35 Ill. Adm. Code 720.111, for the reporting of electronic documents to USEPA.

41. Section 722.123(a) of the Board regulations, 35 Ill. Adm. Code 722.123(a), provides:

a) The generator shall do the following:

1) Sign the manifest certification by hand;

- 2) Obtain the handwritten signature of the initial transporter and date of acceptance on the manifest;
- 3) Retain one copy, in accordance with Section 722.140(a); and
- 4) Send one copy of the manifest to the Agency within two working days.

42. Section 808.122 of the Board 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.

43. Section 809.301 of the Board regulations, 35 Ill. Adm. Code 809.301, provides:

No person may deliver any special waste generated within Illinois or for disposal, storage or treatment within Illinois unless that person concurrently delivers a manifest completed in accordance with Subpart E of this Part to a special waste transporter who holds a current special waste hauling permit issued by the Agency under Subpart B or C of this Part. The following are exemptions to this requirement:

- a) The generator or transporter is not required to complete a manifest for used oil that is defined by and managed in accordance with 35 Ill. Adm. Code 739.
- b) The generator or transporter 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):
 - 1) 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;
 - 2) 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 greater than 5,000 prior to being mixed with the used oil, when:

- A) the characteristic has been extinguished in the resultant mixture;
 - B) both the used oil and the characteristic hazardous waste have been generated and mixed by the same generator; and
 - C) the mixture contains more than 50 percent used oil by either volume or weight;
- 3) Mixtures of used oil as defined by and managed in accordance with 35 Ill. Adm. Code 739 and fuel or other fuel products; and
 - 4) 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.

44. By offering the solvent recovery still bottoms that constitute hazardous waste for transportation for off-site disposal, without having prepared a manifest on the requisite USEPA forms, JCC violated Section 722.120(a) of the Board regulations, 35 Ill. Adm. Code 722.120(a), and thereby violated Section 21(i) of the Act, 415 ILCS 5/21(i) (2016).

45. By generating solvent recovery system still bottoms constituting hazardous waste without properly preparing a waste manifest, JCC violated Section 722.123(a) of the Board regulations, 35 Ill. Adm. Code 722.123(a), and thereby violated Section 21(i) of the Act, 415 ILCS 5/21(i) (2016).

46. By failing to prepare a manifest as set forth in Section 809.501 of the Board regulations, 35 Ill. Adm. Code 809.501, prior to shipment of solvent recovery system still bottoms that constituted special waste, JCC violated Section 808.122 of the Board regulations, 35 Ill. Adm. Code 808.122, and thereby violated Section 21(i) of the Act, 415 ILCS 5/21(i) (2016).

47. By delivering solvent recovery system still bottoms that constitute special waste for disposal within Illinois without concurrently delivering the requisite manifest to a special waste transporter holding the requisite current special waste hauling permit issued by the Agency, JCC violated Section 809.301 of the Board regulations, 35 Ill. Adm. Code 809.301, and thereby violated Section 21(i) of the Act, 415 ILCS 5/21(i) (2016).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against Respondent, JCC SERVICE, INC.:

A. Finding that Respondent has violated Section 21(i) of the Act, 415 ILCS 5/21(i) (2016), and Sections 722.120(a), 722.123(a), 808.122, and 809.301 of the Board regulations, 35 Ill. Adm. Code 722.120(a), 722.123(a), 808.122, and 809.301;

B. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;

C. Pursuant to Section 42(b)(3) of the Act, 415 ILCS 5/42(b)(3) (2016), imposing upon Respondent for violating Section 21(i) of the Act, 415 ILCS 5/21(i) (2016), and Sections 722.120(a), 722.123(a), 808.122, and 809.301 of the Board regulations, 35 Ill. Adm. Code 722.120(a), 722.123(a), 808.122, and 809.301, a civil penalty of up to \$25,000.00 per day of violation; and

D. Granting such other relief as the Board may deem appropriate.

COUNT III
HAZARDOUS WASTE DISPOSAL VIOLATIONS

1-38. Complainant adopts and incorporates by reference herein paragraphs 1 through 38 of Count I as paragraphs 1 through 38 of this Count III.

39. Section 722.112(c) of the Board regulations, 35 Ill. Adm. Code 722.122(c) provides as follows:

* * *

- c) A generator must not offer its hazardous waste to transporters or to treatment, storage, or disposal facilities that have not received a USEPA identification number.

40. By offering solvent recovery system still bottoms, a hazardous waste generated by JCC, to a transporter or a treatment, storage or disposal facility not having received a USEPA identification number, JCC violated Section 722.112(c) of the Board regulations, 35 Ill. Adm. Code 722.112(c), and thereby violated Section 21(i) of the Act, 415 ILCS 5/21(i) (2016).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, JCC SERVICE, INC.:

- A. Finding that Respondent has violated Section 21(i) of the Act, 415 ILCS 5/21(i) (2016), and Section 722.112(c) of the Board regulations, 35 Ill. Adm. Code 722.112(c);
- B. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- C. Pursuant to Section 42(b)(3) of the Act, 415 ILCS 5/42(b)(3) (2016), imposing upon Respondent for violating Section 21(i) of the Act, 415 ILCS 5/21(i) (2016), and Section 722.112(c) of the Board regulations, 35 Ill. Adm. Code 722.112(c), a civil penalty of up to \$25,000.00 per day of violation; and
- D. Granting such other relief as the Board may deem appropriate.

COUNT IV
CONDUCTING HAZARDOUS WASTE OPERATIONS
WITHOUT A RCRA PERMIT

1-38. Complainant adopts and incorporates by reference herein paragraphs 1 through 38

of Count I as paragraphs 1 through 38 of this Count IV.

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

No person shall:

* * *

- f) Conduct any hazardous waste-storage, hazardous waste-treatment or hazardous waste-disposal operation without a RCRA permit for the site issued by the Agency.

* * *

40. Section 721.105(g) of the Board regulations, 35 Ill. Adm. Code 721.105(g),

provides, in pertinent part, as follows:

- g) In order for hazardous waste generated by a CESQG in quantities of 100 kilograms or less of hazardous waste during a calendar month to be excluded from full regulation under this Section, the generator must comply with the following requirements:

- 1) The hazardous waste determination requirements of 35 Ill. Adm. Code 722.111

* * *

41. Sections 703.121(a)-(b) of the Board regulations, 35 Ill. Adm. Code 703.121(a)-

(b), provide:

- 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 waste pile unit that receives 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.

42. JCC conducted a hazardous waste-storage operation without a RCRA permit.

43. By failing to comply with Section 722.111 of the Board regulations, 35 Ill. Adm. Code 722.111, JCC failed to qualify for the exemption provided in Section 721.105(g) of the Board regulations, 35 Ill. Adm. Code 721.105(g).

44. By operating the paint solvent recovery process without a RCRA permit, JCC violated Section 21(f) of the Act, 415 ILCS 5/21(f) (2016), and Section 703.121(a)-(b) of the Board regulations, 35 Ill. Adm. Code 703.121(a)-(b).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against Respondent, JCC SERVICE, INC.:

A. Finding that Respondent has violated Section 21(f) of the Act, 415 ILCS 5/21(f) (2016), and Sections 703.121(a)-(b) of the Board regulations, 35 Ill. Adm. Code 703.121(a)-(b);

B. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;

C. Pursuant to Section 42(b)(3) of the Act, 415 ILCS 5/42(b)(3) (2016), imposing upon Respondent for violating Section 21(f) of the Act, 415 ILCS 5/21(f) (2016), and Sections 703.121(a)-(b) of the Board regulations, 35 Ill. Adm. Code 703.121(a)-(b), a civil penalty of up to \$25,000.00 per day of violation; and

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D. Granting such other relief as the Board may deem appropriate.

Respectfully submitted,

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

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

By:


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