

ILLINOIS POLLUTION CONTROL BOARD
December 2, 2021

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 21-46
) (Enforcement - Land)
WESTERN WATERPROOFING COMPANY,))
d/b/a WESTERN SPECIALTY))
CONTRACTORS, a Missouri corporation; and))
SPRINGFIELD BRANCH, LLC, a Missouri))
corporation,))
))
Respondents.))

OPINION AND ORDER OF THE BOARD (by C.M. Santos):

On December 28, 2020, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a three-count complaint against Western Waterproofing Company, d/b/a Western Specialty Contractors (Western Waterproofing), and Springfield Branch, LLC (Springfield Branch) (collectively, respondents). The complaint concerns Western Waterproofing’s masonry and concrete restoration and preservation operation, which conducts business at a facility owned by Springfield Branch located at 2501 Colt Road in Springfield, Sangamon County. 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 respondents violated Sections 21(f)(1) and (f)(2) of the Act (415 ILCS 5/21(f)(1), (f)(2) (2020)) and Sections 703.121(a) and (b) of the Board’s waste disposal regulations (35 Ill. Adm. Code 703.121(a), (b)) by conducting a hazardous waste storage operation without a Resource Conservation and Recovery Act (RCRA) permit.

The People further allege that Western Waterproofing violated Section 21(i) of the Act (415 ILCS 5/21(i) (2020)) and Section 722.111 of the Board’s regulations (35 Ill. Adm. Code 722.111) by failing to conduct hazardous waste determinations and violated Section 21(e) of the Act (415 ILCS 5/21(e) (2020)) and Section 808.121(a) of the Board’s regulations (35 Ill. Adm. Code 808.121(a)) by failing to conduct special waste determinations.

On October 1, 2021, the People and respondents 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 *Springfield Journal-Register* on October 12, 2021. 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 respondents' 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. Respondents do 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, respondents agree to jointly and severally pay a civil penalty of \$26,500 within 30 days after the date of this order. The People and respondents 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. Western Waterproofing Company, d/b/a Western Specialty Contractors, and Springfield Branch, LLC must pay a civil penalty of \$26,500 no later than Monday, January 3, 2022, which is the first business day following the 30th day after the date of this order. Western Waterproofing Company, d/b/a Western Specialty Contractors, and Springfield Branch, LLC 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. Western Waterproofing Company, d/b/a Western Specialty Contractors, and Springfield Branch, LLC 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

Western Waterproofing Company, d/b/a Western Specialty Contractors, and Springfield Branch, LLC must send a copy of each certified check or money order and any transmittal letter to:

Emma L. Hudspath, Assistant Attorney General
 Environmental Bureau
 Illinois Attorney General's Office
 500 South Second Street
 Springfield, Illinois 62706

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. Western Waterproofing Company, d/b/a Western Specialty Contractors, and Springfield Branch, LLC 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
Emma L. Hudspath, Assistant Attorney General Environmental Bureau Illinois Attorney General's Office 500 South Second Street Springfield, Illinois 62706 emma.hudspathilag.gov	Illinois Pollution Control Board Attn: Don A. Brown, Clerk James R. Thompson Center 100 West Randolph Street, Suite 11-500 Chicago, Illinois 60601 don.brown@illinois.gov

Western Waterproofing Company d/b/a Western Specialty Contractors National Registered Agents, Inc. 208 S. LaSalle St., Suite 814 Chicago, Illinois 60604	
Springfield Branch, LLC National Registered Agents, Inc. 208 S, LaSalle St., Suite 814 Chicago, Illinois 60604	

Board Member Michelle Gibson abstained.

I, Timothy J. Fox, Acting Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on December 2, 2021 by a vote of 4-0.



Timothy J. Fox, Acting Clerk
Illinois Pollution Control Board