

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

Complainant,)

v.)

PCB No.

TITAN INDUSTRIES, INC., an Illinois)
corporation, d/b/a MACKINAW VALLEY)
POWDER COATING; and)
MR REAL PROPERTIES, LLC,)
an Illinois limited liability company,)

Respondents.)

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, complains of Respondents, TITAN INDUSTRIES, INC., an Illinois corporation, d/b/a MACKINAW VALLEY POWDER COATING, and MR REAL PROPERTIES, LLC, an Illinois limited liability company, as follows:

COUNT I
OPEN DUMPING OF WASTE

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 Act, 415 ILCS 5/31 (2022), against Respondents, TITAN INDUSTRIES, INC., an Illinois corporation, d/b/a MACKINAW VALLEY POWDER COATING, and MR REAL PROPERTIES, LLC, an Illinois limited liability company.

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 (2022), 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 General Assembly in Section 5 of the Act, 415 ILCS 5/5 (2022), and charged, *inter alia*, with the duty of determining standards and adopting regulations.

4. This Complaint is brought pursuant to Section 31 of the Act, 415 ILCS 5/31 (2020), after providing Respondents, TITAN INDUSTRIES, INC. (“Titan Industries”) and MR REAL PROPERTIES, LLC (“MR Real Properties”), with notice and opportunity for a meeting with Illinois EPA.

5. Respondent, Titan Industries, is an Illinois corporation in good standing. Titan Industries operates a facility at 300 North Main Street, Mackinaw, Tazewell County, Illinois, under the assumed name of Mackinaw Valley Powder Coating (“MVPC”).

6. Respondent, MR Real Properties, owns the property where the MVPC facility is located, at 300 North Main Street, Mackinaw, Tazewell County, Illinois (“MVPC facility”).

7. Respondents, Titan Industries and MR Real Properties, have the same registered agent.

8. On September 26, 2019, Titan Industries submitted an initial notification of regulated activity as a small quantity generator to the United States Environmental Protection Agency (“USEPA”) for its activities under the MVPC name.

9. On May 13, 2020, Illinois EPA conducted an inspection at the MVPC facility after receiving a complaint that Titan Industries was conducting outdoor sandblasting operations. While conducting the inspection, Illinois EPA also performed a Compliance Evaluation Inspection to

evaluate Titan Industries' generator status and compliance with applicable Resource Conservation and Recovery Act ("RCRA") regulatory requirements. During the inspection, Illinois EPA was accompanied by two representatives of Titan Industries.

10. During the inspection, representatives of Titan Industries advised Illinois EPA that site operations consisted of sandblasting, using a Black Diamond Abrasive Product to prepare metal products for powder coating, and powder coating.

11. During the inspection, Titan Industries was performing sandblasting in an open-sided outdoor grain bin. The sandblasting caused fugitive dust to be discharged from the grain bin. Illinois EPA also noted two areas on the ground where waste sandblasting media indicated sandblasting had occurred, one area thirty (30) feet by forty-five (45) feet and the other forty (40) feet by one hundred (100) feet.

12. On May 14, 2020, Illinois EPA contacted a representative of Titan Industries by phone and discussed the compliance activities needed at the MVPC facility. During that conversation, Titan Industries indicated that it had notified USEPA that it was a small quantity generator of hazardous waste due to its disposal of two drums of hazardous waste generated at a Titan Industries facility in Deer Creek, Illinois, that had been transported to the MVPC facility for storage and subsequent disposal at a licensed facility.

13. On December 18, 2020, the registered agent for both Respondents submitted to Illinois EPA documentation of the disposal of waste sandblasting material in September 2020.

14. Section 21(a) of the Act, 415 ILCS 5/21(a) (2022), provides as follows:

No person shall:

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

15. Section 3.315 of the Act, 415 ILCS 5/3.315 (2022), 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.

16. Respondent Titan Industries is a corporation and therefore a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2022).

17. Respondent MR Real Properties is a limited liability company and therefore a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2022).

18. Section 3.535 of the Act, 415 ILCS 5/3.535 (2022), provides, in pertinent part, 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...

19. Section 3.385 of the Act, 415 ILCS 5/3.385 (2022), provides as follows:

“Refuse” means waste.

20. The dust and sandblasting materials observed at the MVPC facility on May 13, 2020, are “discarded material,” and therefore “waste” as that term is defined in Section 3.535 of the Act, 415 ILCS 5/3.535 (2022), and are therefore also “refuse” as that term is defined in Section 3.385 of the Act, 415 ILCS 5/3.385 (2022).

21. Section 3.305 of the Act, 415 ILCS 5/3.305 (2022), provides as follows:

“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.

22. Section 3.460 of the Act, 415 ILCS 5/3.460 (2022), 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.

23. The MVPC facility is a “site” as that term is defined in Section 3.460 of the Act, 415 ILCS 5/3.460 (2022).

24. Section 3.185 of the Act, 415 ILCS 5/3.185 (2022), 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.

25. Waste was discharged, deposited, dumped, spilled, leaked, and/or placed on the land at the MVPC facility in such a manner that waste, or constituents thereof, could enter the environment, be emitted into the air, or be discharged into waters or ground waters. Therefore, “disposal” has occurred at the MVPC facility as that term is defined in Section 3.185 of the Act, 415 ILCS 5/3.185 (2022).

26. The MVPC facility is a “site” on which waste has been “disposed,” as those terms are defined in Sections 3.185 and 3.460 of the Act, 415 ILCS 5/3.185 and 5/3.460 (2022), making the MVPC facility a “disposal site” as that term is used in Section 3.505 of the Act, 415 ILCS 5/3.505 (2022).

27. Section 3.445 of the Act, 415 ILCS 5/3.445 (2022), provides, in pertinent part, as follows:

“Sanitary landfill” means a facility permitted by the Agency for the disposal of waste on land... without creating nuisances or hazards to public health or safety by confirming the refuse to the smallest practical volume, and covering it with a layer of earth at the conclusion of each day’s operation, or by such other methods and intervals as the Board may provide by regulation.

28. Section 3.105 of the Act, 415 ILCS 5/3.105 (2022), provides as follows:

“Agency” is the Environmental Protection Agency established by this Act.

29. At all times relevant to this Complaint, the MVPC facility has not been permitted by Illinois EPA for the disposal of wastes on land, and therefore is not a “sanitary landfill” as that term is defined in Section 3.445 of the Act, 415 ILCS 5/3.445 (2022).

30. Beginning prior to May 13, 2020, and on dates better known to Respondents, Respondents caused or allowed the consolidation of refuse at a disposal site not meeting the requirements of a sanitary landfill, and therefore caused or allowed open dumping of waste at the MVPC facility.

31. By causing or allowing the open dumping of waste at the MVPC facility, Respondents violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2022).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondents, TITAN INDUSTRIES, INC. d/b/a MACKINAW VALLEY POWDER COATING, and MR REAL PROPERTIES, LLC, on this Count I, as follows:

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

B. Finding that the Respondents have violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2022);

C. Ordering Respondents to cease and desist from further violations of Section 21(a) of the Act, 415 ILCS 5/21(a) (2022);

D. Assessing against each Respondent a civil penalty of up to \$50,000.00 for each violation of Section 21(a) of the Act, 415 ILCS 5/21(a) (2022), and an additional civil penalty of up to \$10,000.00 for each day such violation continued pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2022);

E. Ordering the 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
OPEN DUMPING RESULTING IN LITTER

1-31. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 31 of Count I as paragraphs 1 through 31 of this Count II.

32. Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2022), provides as follows:

No person shall:

* * *

(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;

33. Section 3(a) of the Litter Control Act, 415 ILCS 105/3(a) (2022), provides as follows:

(a) "Litter" means any discarded, used or unconsumed substance or waste. "Litter" may include, but is not limited to, any garbage, trash, refuse, debris, rubbish...or anything else... which has been discarded, abandoned or otherwise disposed of improperly.

34. Discarded materials present at the MVPC facility on May 13, 2020, including dust and sandblasting media, constitute litter as defined by Section 3(a) of the Litter Control Act, 415 ILCS 105/3(a) (2022).

35. Beginning prior to May 13, 2020, and on dates better known to Respondents, Respondents caused or allowed the open dumping of waste at the MVPC facility in violation of Section 21(a) of the Act, 415 ILCS 5/21(a) (2022), in a manner that resulted in litter and thereby violated Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2022).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondents, TITAN INDUSTRIES, INC. d/b/a MACKINAW VALLEY POWDER COATING, and MR REAL PROPERTIES, LLC, on this Count II, as follows:

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

B. Finding that the Respondents have violated Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2022);

C. Ordering Respondents to cease and desist from further violations of Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2022);

D. Assessing against each Respondent a civil penalty of up to \$50,000.00 for each violation of Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2022), and an additional civil penalty of up to \$10,000.00 for each day such violation continued pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2022);

E. Ordering the 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 III
CONDUCTING A WASTE-DISPOSAL OPERATION WITHOUT A PERMIT

1-31. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 31 of Count I as paragraphs 1 through 31 of this Count III.

32. Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2022), provides, in pertinent part, as follows:

No person shall:

* * *

(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,

...

33. Respondents have never been granted a permit by Illinois EPA to conduct a waste-disposal operation at the MVPC facility.

34. Beginning prior to May 13, 2020, and on dates better known to Respondents, Respondents conducted a waste-disposal operation at the MVPC facility without a permit granted by Illinois EPA.

35. By conducting a waste-disposal operation at the MVPC facility without a permit granted by Illinois EPA, Respondents have violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2022).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondents, TITAN INDUSTRIES, INC. d/b/a MACKINAW VALLEY POWDER COATING, and MR REAL PROPERTIES, LLC, on this Count III, as follows:

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

B. Finding that the Respondents have violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2022);

C. Ordering Respondents to cease and desist from further violations of Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2022);

D. Assessing against each Respondent a civil penalty of up to \$50,000.00 for each violation of Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2020), and an additional civil penalty of up to \$10,000.00 for each day such violation continued pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2022);

E. Ordering the 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 IV
FAILURE TO MAKE 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 Act, 415 ILCS 5/31 (2022), against Respondent, TITAN

INDUSTRIES, INC., an Illinois corporation d/b/a MACKINAW VALLEY POWDER COATING.

2-31. Complainant re-alleges and incorporates by reference herein paragraphs 2 through 31 of Count I as paragraphs 2 through 31 of this Count IV.

32. Section 21(e) of the Act, 415 ILCS 5/21(e) (2022), provides 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.

33. Section 722.111 of the Board Regulations, 35 Ill. Adm. Code 722.111, provides, in pertinent part:

A person that generates a solid waste . . . must make an accurate determination as to whether that waste is a hazardous waste in order to ensure that the waste is properly managed according to applicable RCRA regulations.

34. Section 721.102 of the Board Regulations, 35 Ill. Adm. Code 721.102, provides in pertinent part:

a) Solid Waste

1) A solid waste is any discarded material . . .

2) Discarded Material

A) A discarded material is any material that is described as follows:

i) It is abandoned . . .

ii) It is recycled . . .

iii) It is considered inherently waste-like . . .

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

1) It is disposed of:

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

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

a) A solid waste . . . is a hazardous waste if the following is true of the waste:

3) It meets any of the following criteria:

iv) It is a discarded hazardous waste, commercial chemical product or chemical intermediate listed in Section 721.121 [Characteristic of Ignitability], . . . arising from de minimis losses of these materials

36. Titan Industries did not make any determination as to whether the waste sandblast media constituted a hazardous waste.

37. By not making a determination as to whether the waste sandblast media constituted a hazardous waste, Titan Industries violated Section 722.111 of the Board Regulations, 35 Ill. Adm. Code 722.111.

38. 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.

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

39. Section 808.110 of the Board Regulations, 35 Ill. Adm. Code 808.110, provides, 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.

40. Titan Industries did not make any determination as to whether the waste sandblast media constituted a special waste.

41. By not making a determination as to whether the waste sandblast media constituted a special waste, Titan Industries violated Section 808.121(a) of the Board Regulations, 35 Ill. Adm. Code 808.121(a).

42. By violating Sections 722.111 and 808.121(a) of the Board Regulations, 35 Ill. Adm. Code 722.111 and 808.121(a), Titan Industries disposed, treated, stored or abandoned waste at a site that did not meet the requirements of the Act and of regulations and standards thereunder and thereby violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2022).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, TITAN INDUSTRIES, INC. d/b/a MACKINAW VALLEY POWDER COATING on this Count IV, as follows:

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) (2022), and Sections 722.111 and 808.121(a) of the Board Regulations, 35 Ill. Adm. Code 722.111, 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) (2020), and Sections 722.111 and 808.121(a) of the Board Regulations, 35 Ill. Adm. Code 722.111, 808.121(a);

D. Assessing against Respondent a civil penalty of up to \$50,000.00 for each violation of Section 21(e) of the Act, 415 ILCS 5/21(e) (2022), and Section 808.121(a) of the Board Regulations, 35 Ill. Adm. Code 808.121(a), and an additional civil penalty of up to \$10,000.00 for each day each violation continued, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2020), and a civil penalty of up to \$25,000.00 for each day of violation of 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) (2022);

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 V
CONDUCTING A HAZARDOUS WASTE MANAGEMENT OPERATION
WITHOUT A RCRA PERMIT

1-42. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 31 of Count I, and paragraphs 32 through 42 of Count IV, as paragraphs 1 through 42 of this Count V.

43. Section 721.121 of the Board Regulations, 35 Ill. Adm. Code 721.121, provides, in relevant part, as follows:

- a) A solid waste exhibits the characteristic of ignitability if a representative sample of the waste has any of the following properties:
 - 1) It is a liquid, other than an aqueous solution containing less than 24 percent alcohol by volume, and has a flash point less than 60° C (140°F), as determined by a Pensky-Martens Closed Cup Tester, using the test method specified in ASTM D 93-85 (Standard Test Methods for Flash Point by Pensky-Martens Closed Tester), or a Setaflash Closed Cup Tester, using the test method specified in ASTM D 3828-87, (Standard Test Methods for Flash Point of Liquids by Setaflash Closed Tester), each incorporated by reference in 35 Ill. Adm. Code 720.111(a).

44. On December 18, 2020, the registered agent for both Respondents submitted to Illinois EPA documentation of the disposal of two drums of waste paint-related material, classified as flammable liquid, and therefore hazardous waste, in February 2020.

45. Section 21(f)(1)-(2) of the Act, 415 ILCS 5/21(f)(1)-(2) (2022), 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.

* * *

46. Section 3.480 of the Act, 415 ILCS 5/3.480 (2022), 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.

47. Section 3.220 of the Act, 415 ILCS 5/3.220 (2022), 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.

48. Section 3.370 of the Act, 415 ILCS 5/3.370 (2022), 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.

49. 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.

50. 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).

51. Beginning prior to May 13, 2020, and on dates better known to Respondents, Respondents disposed of, stored, and/or abandoned hazardous wastes at the site.

52. As a result of Respondents' operations at the site, 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) (2022), and as defined in Section 702.110 of the Board Regulations, 35 Ill. Adm. Code 702.110.

53. As a result of Respondents' operations at the MVPC facility, Respondents are each the "owner or operator" of a "HWM" unit at the MVPC facility, as those terms are defined in Section 702.110 of the Board Regulations, 35 Ill. Adm. Code 702.110.

54. By conducting a hazardous waste storage and/or disposal operation at the MVPC facility without a RCRA permit, Respondents violated Section 21(f)(1) of the Act, 415 ILCS 5/21(f)(1) (2022), and Section 703.121(a) of the Board Regulations, 35 Ill. Adm. Code 703.121(a).

55. By violating Section 703.121(a) of the Board Regulations, 35 Ill. Adm. Code 703.121(a), Respondents conducted a hazardous waste storage and/or disposal operation in violation of Board Regulations, and thereby violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondents, TITAN INDUSTRIES, INC. d/b/a MACKINAW VALLEY POWDER COATING, and MR REAL PROPERTIES, LLC, on this Count V, as follows:

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) (2022), 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) (2022), and Section 703.121 of the Board Regulations, 35 Ill. Adm. Code 703.121;

D. Assessing against each Respondent a civil penalty of up to \$25,000.00 for each day of each violation of Sections 21(f)(1)-(2) of the Act, 415 ILCS 5/21(f)(1)-(2) (2020), 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) (2022);

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 VI
AIR POLLUTION

1-31. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 31 of Count I as paragraphs 1 through 31 of this Count VI.

32. Section 9(a) of the Act, 415 ILCS 5/9(a) (2022), provides as follows:

No person shall:

(a) Cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act.

33. Section 3.165 of the Act, 415 ILCS 5/3.165 (2022), provides as follows:

“Contaminant” is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

34. Section 3.115 of the Act, 415 ILCS 5/3.115 (2022), provides as follows:

“Air pollution” is the presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property.

35. Dust resulting from the sandblasting operations at the MVPC facility is a contaminant as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165.

36. On or before May 13, 2020, and on dates better known to Respondents, Respondents caused the release of contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health or to property, or to unreasonably interfere with the enjoyment of life or property.

37. On or before May 13, 2020, and on dates better known to Respondents, Respondents caused or threatened or allowed the discharge or emission of contaminants into the environment so as to cause or tend to cause air pollution in Illinois.

38. By causing or threatening or allowing the discharge or emission of contaminants into the environment so as to cause or tend to cause air pollution in Illinois, Respondents violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2022).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondents, TITAN INDUSTRIES, INC. d/b/a MACKINAW VALLEY POWDER COATING, and MR REAL PROPERTIES, LLC, on this Count VI, as follows:

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

- B. Finding that the Respondents have violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2022);
- C. Ordering Respondents to cease and desist from any further violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2022);
- D. Assessing against each Respondent a civil penalty of up to \$50,000.00 for each violation of Section 9(a) of the Act, and an additional civil penalty of up to \$10,000.00 for each day such violation continued, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2022);
- E. Ordering the 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 relief as the Board may deem 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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