

ILLINOIS POLLUTION CONTROL BOARD
March 14, 2019

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 19-62
)	(Enforcement – RCRA)
JCC SERVICE, INC. f/k/a JOHNSON)	
PAINTING AND SANDBLASTING,)	
an Iowa corporation,)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by B.K. Carter):

On September 26, 2018, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a four-count complaint against JCC Service, Inc. (JCC), formerly known as “Johnson Painting and Sandblasting.” The complaint concerns JCC’s metal fabrication facility located at 2750 Morton Drive in East Moline, Rock Island 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 (2016)), 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 (2016); 35 Ill. Adm. Code 103. In this case, the People allege that JCC:

Count I—Violated Sections 722.111, 728.107(a)(1), and 808.121(a) of the Board’s waste regulations (35 Ill. Adm. Code 722.111, 728.107(a)(1), 808.121(a)) and Section 21(i) of the Act (415 ILCS 5/21(i) (2016)) by failing to conduct a hazardous waste determination and a special waste determination for its still bottom waste and failing to properly treat the waste prior to disposing of it in a general refuse dumpster.

Count II—Violated Sections 722.120(a), 722.123(a), 808.122, and 809.301 of the Board’s waste regulations (35 Ill. Adm. Code 722.120(a), 722.123(a), 808.122, 809.301) and Section 21(i) of the Act (415 ILCS 5/21(i) (2016)) by failing to prepare a waste manifest form prior to offering hazardous waste for shipment and disposal.

Count III—Violated Section 722.112(c) of the Board’s waste regulations (35 Ill. Adm. Code 722.112(c)) and Section 21(i) of the Act (415 ILCS 5/21(i) (2016)) by offering hazardous waste to an unpermitted transporter or an unpermitted treatment, storage or disposal facility.

Count IV—Violated permit requirements in Section 703.121(a) and (b) of the Board’s waste regulations (35 Ill. Adm. Code 703.121(a), (b)) and Section 21(f) of the Act (415 ILCS 5/21(f) (2016)) by operating a hazardous waste storage facility without a Resource Conservation and Recovery Act (RCRA) permit or without an exemption to the permit requirements.

On December 27, 2018, the People and JCC 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) (2016)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2016)), 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 Dispatch / Rock Island Argus*, a newspaper of general circulation in East Moline, on February 12, 2019. 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) (2016); 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 JCC’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) (2016)), which bears on the reasonableness of the circumstances surrounding the alleged violations. JCC 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) (2016)), which may mitigate or aggravate the civil penalty amount. JCC agrees to pay a civil penalty of \$25,000. The People and JCC 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. JCC must pay a civil penalty of \$25,000 no later than Monday, April 15, 2019, which is the first business day following the 30th day after the date of this order. JCC must pay the civil penalty by certified check or money order made 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 face of the certified check or money order.
3. JCC must submit payment of the civil penalty to:

Illinois Environmental Protection Agency

Fiscal Services #2
 1021 North Grand Avenue East
 P.O. Box 19276
 Springfield, Illinois 62794-9276

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

Christina L. Nannini
 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) (2016)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2016)).
5. JCC 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) (2016); *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 Environmental Bureau Attn: Christina L. Nannini 500 South Second Street	Illinois Pollution Control Board Attn: Don A. Brown, Clerk James R. Thompson Center 100 West Randolph Street, Suite 11-500

Springfield, Illinois 62706	Chicago, Illinois 60601
JCC Service, Inc. c/o L & W Agents, Inc. 3551 7th Street Suite 110 Moline, Illinois 61265	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on March 14, 2019, by a vote of 5-0.



Don. A Brown, Clerk
Illinois Pollution Control Board