

**IN THE CIRCUIT COURT FOR THE TWENTIETH JUDICIAL CIRCUIT
ST. CLAIR COUNTY, ILLINOIS**

PEOPLE OF THE STATE OF ILLINOIS,)
ex rel. KWAME RAOUL, Attorney General)
of the State of Illinois,)
)
Plaintiff,)
)
v.)
)
JET ENTERPRISES & HOLDING CO., LLC,)
a Delaware limited liability company, and)
JORDAN WOMACK, an individual,)
)
Defendants.)

No. 24-CH-0022

VERIFIED COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* KWAME RAOUL, Attorney General of the State of Illinois, on his own motion and at the request of the Illinois Environmental Protection Agency, complains of Defendants, JET ENTERPRISES & HOLDING, CO., LLC, a Delaware limited liability company; and JORDAN WOMACK, an individual, as follows:

COUNT I
SUBSTANTIAL ENDANGERMENT
TO THE ENVIRONMENT AND TO PUBLIC HEALTH AND WELFARE

1. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* 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 provision of Section 43(a) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/43(a) (2022), and is an action against Defendants, JET ENTERPRISES & HOLDING CO., LLC and JORDAN WOMACK, to restrain a substantial danger to the environment and to public health and welfare.

The Parties

2. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2022), and charged, *inter alia*, with the duty of enforcing the Act.

3. At all times relevant to this Complaint, Defendant, JET ENTERPRISES & HOLDING CO., LLC (“JET”), is and has been a Delaware limited liability company, registered with the Illinois Secretary of State to do business within the State of Illinois.

4. Defendant, JORDAN WOMACK (“WOMACK”), an individual, served as a demolition contractor for Defendant JET during at least November 2023 through February 2024, and on dates better known to Defendants.

The Facility

5. A former zinc refinery is located at 2401 Mississippi Avenue, Sauget, St. Clair County, Illinois (“Facility”). As of the filing date of this Complaint, the property is owned and operated by Defendant JET.

6. As of the filing date of this Complaint, the Facility is located in an area of Environmental Justice (“EJ”) concern as identified using Illinois EPA EJ Start.

History of the Facility

7. Zinc refining began at the Facility in 1929, with zinc sulfide concentrates being roasted and refined from 1929 to 1931.

8. In 1940, the Facility was purchased by a zinc refining company, and during its tenure, the zinc company built a plant for leaching and purification, a roaster plant, and a casting plant.

9. The Facility was closed from 1971 to 1973.

10. Another zinc refining company reopened the Facility in 1973. The Facility remained in operation as a zinc refining facility under various owners until 2005.

11. Defendant JET originally owned the Facility for a period during 2015. Defendant JET reobtained ownership of the property prior to November 2023, the exact date better known to Defendant JET.

Layout of the Facility

12. A former office building and laboratory are located at the southwest corner of the Facility (“Former Lab”). In 1995, a prior owner conducted an asbestos inspection which determined that this building contained 15,150 square feet of asbestos-containing floor tile.

13. A cadmium plant (“Cadmium Plant”) is also located at the southwest corner of the property, slightly northeast from the Former Lab.

14. A melt and casting plant (“Casting Plant”) comprises three conjoined buildings located in the southwest corner of the property, directly to the east of the Cadmium Plant. These buildings were originally built in 1963 to conduct casting activities.

15. Cooling towers are located in the southeast corner of the Facility, to the east of the Casting Plant. One cooling tower is partially demolished, with rubble from the demolition on the ground on the east side of the cooling towers.

16. Prior owners formerly operated a substation, an electrolyzing department cell room, leach purification department, thickener tank, sulfuric acid plant, and roaster and precipitator at the east side of the Facility. The leach purification department was built during the 1940s. The roaster plant was added in 1963 and the sulfuric acid plant was added in 1965. Since that time, the buildings and process units containing these operations have been demolished. The former leach purification department is now covered in a sand-like material (“Sand Area”), with thickener tanks

to the north of the current Sand Area. The former sulfuric acid plant (“Former Sulfuric Acid Plant”) is located to the north and west of the thickener tanks. The former substation (“Former Substation”) is located in the southeast corner of the Facility, with the former electrolyzing department cell room (“Former Electrolyzing Room”) adjacent to the north of the Former Substation.

17. A test laboratory (“Test Lab”) is located to the north of the cooling towers and to the west of the Sand Area. A storage building (“Storage Building”) is located next to the Test Lab.

18. To the north of the Sand Area are multiple silos referred to as calcine silos (“Calcine Silos”).

19. A storage building called the Concentrate Storage Building (“CSB”) is located on the east side of the property, to the north of the Sand Area. The building is a four-sided building containing six concrete stalls, numbered from south to north 1 through 6, and covered by a metal roof. These stalls were leased out for storage. On September 26, 2022, the CSB was burned in a fire.

20. Directly to the north of the CSB is the Concentrate Storage Pad (“CSP”), which was formerly used to store zinc concentrates.

21. A skimmings plant (“Skimmings Plant”) is located in the center of the property, to the west of the Former Sulfuric Acid Plant.

22. A plant formerly used for the pre-leaching processes of removing magnesium from zinc concentrate prior to roasting (“Pre-Leaching Plant”) is located slightly northwest of the Skimmings Plant.

23. To the west of the Pre-Leaching Plant is a large surface impoundment called the plant effluent area (“PEA”). The PEA was used to contain magnesium sulfate and effluent from plant operations.

24. A stormwater tank (“Stormwater Tank”) received stormwater from a shallow water collection system installed along the eastern edge of the Facility property and in the central portion of the Facility, in the vicinity of the PEA, Effluent Treatment Plant, and CSP. The collected stormwater flowed to four sump pits that discharge through a forced main to the Stormwater Tank.

25. A trailer is located on the western side of the Stormwater Tank (“Stormwater Tank Trailer”).

26. At the north end of the Facility is an approximately 7.5-acre vacant area (“Vacant North Area”). This area does not appear to have ever had any zinc processing units.

Illinois EPA Inspections

27. On September 27, 2022, Illinois EPA responded to a fire that had taken place at the CSB on September 26, 2022.

28. On November 9, 2023, Illinois EPA conducted an inspection of the Facility after receiving a citizen complaint alleging waste mismanagement and abandonment at the Facility.

29. On December 6, 2023, Illinois EPA returned to the Facility to take samples based on its observations during its November 9, 2023 inspection. Samples could not be taken at the CSB on that day, so Illinois EPA returned on December 7, 2023 with the Illinois Emergency Management Agency (“IEMA”) to address the concerns that prevented samples from being taken during the December 6, 2023 inspection. On December 8, 2023, Illinois EPA returned to the Facility to obtain two samples at the CSB.

30. On February 21, 2024, Illinois EPA returned to the Facility to take additional samples.

Former Lab Observations

31. On November 8, 2023, Illinois EPA observed active demolition at the office side of the Former Lab. Water was being sprayed at the demolition site where heavy equipment was operating.

32. On November 9, 2023, Illinois EPA did not observe any heavy equipment operating at the Former Lab. The Former Lab appeared to have been mostly demolished, with demolition debris in the basement of the structure.

33. On November 9, 2023, Illinois EPA observed floor tile and ceiling panels in the demolition debris that appeared to be regulated asbestos-containing material. Illinois EPA instructed a representative of Defendant JET that all demolition work must cease until an asbestos inspection had been conducted, and a notification had been submitted to Illinois EPA.

Cadmium Plant Observations

34. On November 9, 2023, Illinois EPA observed numerous containers of chemicals, including open containers, in the Cadmium Plant. The containers held both solids and liquids. Many of the containers were covered in bird droppings and appeared to have been abandoned.

35. On November 9, 2023, Illinois EPA compiled a partial inventory for the chemicals stored in the Cadmium Plant. Items observed in the Cadmium Plant included, but were not limited to, two (2) open 5-gallon buckets of cadmium oxide; one (1) 35-gallon unlabeled polyethylene drum with a cracked lid; three (3) 5-gallon buckets of biocide; two (2) 5-gallon buckets of stripper and marked with a corrosive placard; three (3) unlabeled 55-gallon drums; four (4) 5-gallon buckets of potassium permanganate; seven (7) 5-gallon totes of potassium hydroxide; four (4) 5-gallon buckets that appeared to contain paint; one (1) 55-gallon drum of grease; three (3) 55-gallon drums of potassium hydroxide; twelve (12) plastic trash cans containing fluorescent bulbs; one (1) 55-gallon drum with a hazardous waste label and containing unknown contents; four

(4) cardboard boxes of laboratory chemicals; and two (2) 55-gallon drums labeled as cadmium oxide.

36. On November 9, 2023, Illinois EPA noted that containers of two incompatible chemicals, biocide and potassium hydroxide, were stored in close proximity in the Cadmium Plant.

Casting Plant Observations

37. On November 9, 2023, Illinois EPA inspected the Casting Plant. There was no light in the first building of the Casting Plant, and the inspection of this building had to be conducted with a flashlight. Using a flashlight, Illinois EPA observed large duct works and other large apparatuses present in the building, but could not determine if the equipment contained dust.

38. On November 9, 2023, using a flashlight, Illinois EPA noted multiple containers present in the Casting Plant, including, but not limited to, six (6) rusty 55-gallon metal drums filled with zinc alloy and magnesium alloy; three (3) 30-gallon metal drums of aluminum alloy; and multiple containers ranging in size from 5-gallons to 55-gallons containing lubricating oil and other petroleum products.

39. On November 9, 2023, Illinois EPA noted that one of the buildings making up the Casting Plant was locked, and was therefore not able to be inspected.

40. On November 9, 2023, Illinois EPA entered the third building of the Casting Plant, which was, and is, being rented by a hemp fiber processing plant. Illinois EPA noted a large pile of what appeared to be refractory brick covered in hemp fiber dust, with two (2) containers behind the pile. One container was observed to be an unlabeled 55-gallon fiber drum, and another container was observed to be tipped on the floor, with a “fluorescent bulb” label.

Sand Area Observations

41. On November 9, 2023, Illinois EPA inspected the Sand Area. This area was the former Leach Purification Plant, and much of the area had been covered with sand-like material (“Hazardous Sand”).

42. On December 6, 2023, Illinois EPA took two samples of the Hazardous Sand, Sample X201 and Sample X202.

43. Sample X201 was a composite sample of the entire area covered in the Hazardous Sand. This sample was characteristically hazardous for cadmium and lead.

44. Sample X202 was a grab sample of the Hazardous Sand. This sample was characteristically hazardous for cadmium.

45. Both Sample X201 and Sample X202 contained high amounts of zinc.

46. On February 21, 2024, Illinois EPA observed indications that heavy equipment operated by Defendant WOMACK had been driven repeatedly over the Hazardous Sand. Illinois EPA advised Defendant WOMACK to cease operating equipment on the Hazardous Sand and to refrain from being on the Hazardous Sand.

Former Electrolyzing Department

47. On November 9, 2023, Illinois EPA observed the concrete foundations and concrete rubble in the area of the former structures of the Former Sulfuric Acid Plant and Former Roaster and Precipitator Area.

48. On November 9, 2023, Illinois EPA observed dimensional lumber, broken pipes, roofing material, and concrete with protruding rebar in the demolition area for the Former Electrolyzing Department.

49. On December 6, 2023, Illinois EPA collected fourteen (14) samples of suspected asbestos-containing material from the piles in the demolition area for the Former Electrolyzing Department.

50. Illinois EPA tested the samples taken on December 6, 2023. Sample X311 tested positive for Chrysotile asbestos (10-20%) and Sample X313 tested positive for Amosite asbestos (2-3%).

Test Lab Observations

51. On November 9, 2023, Illinois EPA observed that a small storage shed located outside of the entrance to the Test Lab contained containers of chemicals.

52. On November 9, 2023, Illinois EPA observed that the ceiling of the Test Lab was falling on the floor, and it appeared that the roof was leaking.

53. On November 9, 2023, Illinois EPA entered the Test Lab and observed that many of the tables in the Test Lab had bottles of lab chemicals, with many containers in poor condition or open, and broken lab glass.

Storage Building Observations

54. On November 9, 2023, Illinois EPA observed that several drums of petroleum product were stored in the Storage Building.

CSB Observations

55. On September 27, 2022, Illinois EPA responded to a fire at the CSB that had taken place on September 26, 2022. During this inspection, Illinois EPA was advised of a drum that contained five (5) radioactive Geiger counters which belonged to a prior owner of the Facility. Illinois EPA was advised at this time by a representative of the former owner of the Facility that this drum had been exposed to the heat of the fire, but did not break open. Illinois EPA was also advised that the drum would be disposed of properly.

56. On November 9, 2023, Illinois EPA observed that the CSB still appeared heavily damaged by the fire that had taken place in September 2022.

57. On November 9, 2023, Illinois EPA observed that Stall 1 of the CSB contained burned and twisted metal, burned hemp fiber, burned fiberglass, and other burned material.

58. On November 9, 2023, Illinois EPA observed that Stall 2 of the CSB contained burned hemp fiber and building debris.

59. On November 9, 2023, Illinois EPA observed that Stall 3 of the CSB contained a green, gray, and brown sludge (“CSB Sludges”).

60. On December 6, 2023, when Illinois EPA intended to take samples of the CSB Sludges, Illinois EPA was advised by a representative for Defendant JET that the radioactive units that had been identified during the September 27, 2022 inspection were missing.

61. On December 6, 2023, Illinois EPA was advised by a representative of Defendant JET not to take samples in the CSB due to the missing radioactive units.

62. According to an IEMA General License Registration form dated September 9, 2015, Defendant JET notified IEMA of the presence of five radioactive devices at the Facility, containing the isotope/radionuclide Cesium-137. Defendant JET did not have possession of the Facility from 2015 until 2023, so the location of the devices following the September 27, 2022 fire was unknown.

63. On December 6, 2023, Illinois EPA observed, outside of the CSB, a yellow poly drum on its side and open, with a device labeled “scintillation detector” falling out. While inspecting the unit, Illinois EPA observed an additional device labeled “scintillation detector” within the drum.

64. On December 6, 2023, Illinois EPA contacted IEMA regarding the missing radioactive units and to advise of its observations of the “scintillation detectors.”

65. On December 7, 2023, Illinois EPA returned to the Facility with IEMA. During this inspection, IEMA inspected the drum containing the “scintillation detectors”.

66. On December 7, 2023, IEMA identified three gauges at the bottom of the drum containing the “scintillation detectors”. The three gauges were three of the five radioactive sources identified on the General License Registration form submitted by Defendant JET to IEMA. The three gauges were safely transported by IEMA for storage at the IEMA radioactive material storage building in Springfield, Illinois.

67. On December 7, 2023, IEMA screened the CSB Sludges in Stall 3 to determine if it was safe for Illinois EPA to sample. No evidence of radioactive activity was found.

68. On December 8, 2023, Illinois EPA took samples of the CSB Sludges in Stall 3.

69. Sample X210 was taken of the green and gray material. This material was hard but crumbled easily. This sample tested characteristically hazardous for arsenic, cadmium, and lead.

70. Sample X211 was taken of the brown sludge that had accumulated around the green and gray material. This material consisted of a fine grain material with a mud-like consistency. This sample tested characteristically hazardous for arsenic and cadmium.

CSP Observations

71. On November 9, 2023, Illinois EPA observed the CSP was covered with about two feet of water.

72. On November 9, 2023, Illinois EPA observed used lighting fixtures containing bulbs and Intermediate Bulk Container (“IBC”) totes on the CSP.

Skimmings Plant Observations

73. On November 9, 2023, Illinois EPA observed in the Skimmings Plant some small piles of yellowish-green material (“Yellow-Green Waste”) that appeared ceramic.

74. On December 6, 2023, Illinois EPA took sample X203 of the Yellow-Green Waste. The sample tested characteristically hazardous for arsenic and cadmium.

Effluent Treatment Plant Observations

75. On November 9, 2023, Illinois EPA observed in the Effluent Treatment Plant twenty (20) 55-gallon drums of a substance that appeared to be oil; one (1) IBC tote of oil; and one (1) container of fluorescent light tubes.

76. On November 9, 2023, Illinois EPA observed additional tanks and equipment in the Effluent Treatment Plant, but could not determine if they contained any material. The tanks in the back room appeared to be in poor condition.

77. On November 9, 2023, north of the Effluent Treatment Plant, Illinois EPA observed two piles of various debris, including, but not limited to, railroad ties, piping, metal, foam insulation, and tires.

Plant Effluent Area Observations

78. On November 9, 2023, Illinois EPA observed that the PEA appeared to have had a plastic liner at one point, but the liner had degraded. The portions of the liner that could be observed were in poor condition.

79. On November 9, 2023, Illinois EPA observed that the containment wall for the north side of the impoundment was missing. Illinois EPA observed debris that appeared to be from this wall placed in a pile north of the PEA.

80. On December 6, 2023, Illinois EPA sampled the debris pile north of the impoundment (Sample X206) and the floor of the PEA (Sample X207).

81. Sample X206 tested characteristically hazardous for cadmium and lead.

82. Sample X207 tested characteristically hazardous for cadmium.

Stormwater Tank Observations

83. On November 9, 2023, Illinois EPA observed that a large section of the north containment wall of the Stormwater Tank had been removed, allowing water from the tank to flow onto the Vacant North Area.

84. On December 6, 2023, Illinois EPA took two water samples of the contents of the Stormwater Tank, which were labeled S501 and S502.

85. On February 6, 2024, Illinois EPA received the results from water samples S501 and S502. The results are summarized in the following table, with amounts in mg/L or indicated as non-detect (“ND”):

Constituent	S501	S502
Aluminum	ND	2.73
Antimony	ND	0.058
Arsenic	ND	0.947
Barium	0.029	0.432
Boron	0.115	0.124
Cadmium	0.142	0.628
Calcium	196	228
Chromium	ND	0.06
Cobalt	0.033	0.167
Copper	0.0517	3.42
Iron	ND	15.8
Lead	0.0763	10.2

Constituent	S501	S502
Magnesium	25.2	28.8
Manganese	0.294	1.04
Nickle	0.008	0.107
Potassium	22.3	21.9
Selenium	0.0485	0.372
Silver	0.003	0.161
Sodium	49	48.5
Strontium	2.86	2.9
Vanadium	ND	0.087
Zinc	3.62	78.6

86. The results summarized in the table of Paragraph 83, above, indicate that the water that is being discharged into the Vacant North Area (“Stormwater Discharge”) is contaminated with metals.

Stormwater Tank Trailer Observations

87. On November 9, 2023, Illinois EPA observed an area devoid of vegetation behind the Stormwater Tank Trailer. The area of dead vegetation extended to bunkers on the north side of the PEA.

88. On November 9, 2023, Illinois EPA observed a reddish sludge-like material (“Red Sludge”) around the Stormwater Tank Trailer. This Red Sludge also appeared to be present on the bunker walls.

89. On December 6, 2023, Illinois EPA sampled the Red Sludge behind the trailer and in front of the Stormwater Tank Trailer.

90. Sample X204 was taken of the Red Sludge material behind the Stormwater Tank Trailer. This sample tested characteristically hazardous for cadmium.

91. Sample X205 was taken of the Red Sludge in front of the Stormwater Tank Trailer. This sample tested characteristically hazardous for cadmium and lead.

92. On November 9, 2023, Illinois EPA observed 75 empty cadmium oxide drums inside one of the bunkers near the Stormwater Tank Trailer. Some of these drums were observed to be collecting rainwater.

Vacant North Area Observations

93. On November 9, 2023, Illinois EPA inspected three piles of material located in the Vacant North Area of the Facility.

94. On November 9, 2023, Illinois EPA observed at least thirty-five (35) supersacks of yellowish-green material that appeared to be the same as the Yellow-Green Waste observed on the floor of the Skimmings Building.

95. On November 9, 2023, Illinois EPA additionally observed in the three piles of material: dimensional lumber, metal, fiberglass piping, siding, broken tanks, plastic disks, an empty 55-gallon drum, drum of grease, rubber hoses, household trash, and supersacks containing empty supersacks covered in black sludge.

96. On November 9, 2023, Illinois EPA observed that the easternmost pile (“Pile 1”) contained pieces of green pipe that resembled material sampled in the Former Electrolyzing Department.

97. On November 9, 2023, Illinois EPA observed that the northernmost pile (“Pile 2”) contained a pallet of bagged material. The label on the bags was not readable.

98. On November 9, 2023, Illinois EPA observed that Pile 2 contained a large amount of soil mixed with the Yellow-Green Waste.

99. On November 9, 2023, Illinois EPA observed several broken supersacks of the Yellow-Green Waste which were in contact with stormwater pooled around the northern waste pile. The water had a yellow tint.

100. On November 9, 2023, Illinois EPA observed hemp bales which were in contact with pooled stormwater. The water was dark brown.

101. On November 9, 2023, Illinois EPA observed that the third pile (“Pile 3”) did not contain any Yellow-Green Waste, but did contain a 15-gallon drum of grease.

102. On December 6, 2023, Illinois EPA collected a surface sample of the Yellow-Green Waste from Pile 1 (X208) and Pile 2 (X209). These samples did not show any constituents above the Toxic Characteristic Leaching Procedure (“TCLP”) regulatory limit.

103. On February 21, 2024, Illinois EPA collected additional, more representative samples of the supersacks. These samples also did not show any constituents above the TCLP regulatory limit for the supersacks in Pile 1 or Pile 2, but Pile 2 did contain soil and rocks that tested as hazardous for cadmium.

Substantial Endangerment

104. Section 43(a) of the Act, 415 ILCS 5/43(a) (2022), provides as follows:

In circumstances of substantial danger to the environment or to the public health of persons or to the welfare of person where such danger is to the livelihood of such persons, the State’s Attorney or Attorney General, upon request of the Agency or on his own motion, may institute a civil action for an immediate injunction to halt any discharge or other activity causing or contributing to the danger or to require such other action as may be necessary. The court may issue an ex parte order and shall schedule a hearing on the matter not later than 3 working days from the date of injunction.

105. Illinois EPA has identified the presence of multiple substances at the Facility that sampling showed to be hazardous wastes, including the Hazardous Sand in the Sand Area; the

Yellow-Green Waste present in the Skimmings Plant; the Red Sludge identified in the Stormwater Tank Trailer area; and the CSB Sludges.

106. Demolition at the Former Lab began without an asbestos notification to Illinois EPA. Asbestos-containing material has been identified at other locations on the Facility.

107. Defendant JET is currently missing two radioactive units, which Defendant JET had previously reported to IEMA as being the present at the Facility.

108. The Facility has multiple buildings where various chemicals are being stored, including the Cadmium Plant, Test Lab, Effluent Lab, and various other buildings and storage sheds at the Facility. Defendant JET is storing these chemicals in an improper and dangerous manner, with open and poorly maintained containers being stored in buildings that do not have electricity or adequate safety measures in place.

109. Stormwater discharges at the Facility are contaminated with metals, and pose a risk of flowing offsite.

110. Several of the sources of pollution at the Facility are exposed to the elements, such as wind and water, and are therefore at risk for migration off of the Facility.

111. There are tenants who utilize the Facility for their business, and are at risk for exposure to the various sources of pollution at the Facility.

112. Due to the numerous sources of pollution at the Facility, the risk of pollution leaving the Facility through wind, stormwater, or other means, and the improper storage of chemicals, the Facility is currently of substantial danger to the environment and to the public health and welfare.

113. Without immediate action to remediate the sources of pollution at the Facility, the risk of pollution impacting tenants and spreading offsite will continue to create circumstances of substantial danger to the environment and to public health and welfare.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Court grant an immediate and preliminary injunction in favor of Plaintiff and against Defendants, JET ENTERPRISES & HOLDING CO., LLC, and JORDAN WOMACK, on Count I:

A. Finding that Defendants have created and are maintaining a substantial danger to the environment and to public health and welfare;

B. Ordering Defendants to immediately cease and desist from all demolition activities at the Facility; cease and desist from travel across or otherwise disturbing the Hazardous Sand at the Sand Area, the Red Sludge at the Stormwater Tank Trailer, and the Yellow-Green Waste at the Skimmings Plant; and implement containment measures to prevent waste from moving off-site;

C. Ordering Defendants to immediately undertake corrective action that will result in a final and permanent abatement of the substantial danger to the environment and to public health and welfare; and

D. Granting such relief as this Court deems equitable and just.

COUNT II
OPEN DUMPING

1. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS *ex rel.* KWAME RAOUL, Attorney General of the State of Illinois, on his own motion, pursuant to Sections 42(d) and (e) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/42(d), (e) (2022), against Defendant, JET ENTERPRISES & HOLDING CO., LLC.

2-112. Plaintiff re-alleges and reincorporates by reference herein paragraphs 2 through 112 of Count I as paragraphs 2 through 112 of this Count II.

113. 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.

114. Section 3.315 of the Act, 415 ILCS 5/3.315 (2022), provides the following definition:

“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.

115. Defendant JET, a limited liability company, is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2022).

116. Section 3.305 of the Act, 415 ILCS 5/3.305 (2022), provides the following definition:

“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.

117. Section 3.385 of the Act, 415 ILCS 5/3.385 (2022), provides the following definition:

“Refuse” means waste.

118. Section 3.535 of the Act, 415 ILCS 5/3.535 (2022), provides, in pertinent part, the following definition:

“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,

119. Materials present at and around the Facility, including, but not limited to, the Hazardous Sand, Yellow-Green Waste, CSB Sludges, Red Sludge, abandoned chemicals, and petroleum products, are “waste,” as that term is defined in Section 3.535 of the Act, 415 ILCS 5/3.535 (2022), and therefore also “refuse,” as that term is defined in Section 3.385 of the Act, 415 ILCS 5/3.385 (2022).

120. Section 3.460 of the Act, 415 ILCS 5/3.460 (2022), provides the following definition:

“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.

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

122. 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.

123. On November 8, 2023, and on dates better known to Defendant JET, metal and chemical wastes, including, but not limited to, arsenic, cadmium, lead, and wastes containing them, including, but not limited to, the concrete rubble, Hazardous Sand, dimensional lumber, broken pipes, roofing material, lighting fixtures, lightbulbs, IBC totes, Yellow-Green Waste, railroad ties, foam, insulation, tires, Red Sludge, and burn debris, have all been deposited on the Facility in such a manner so as to constitute “disposal,” as that term is defined in Section 3.185 of the Act, 415 ILCS 5/3.185 (2022).

124. The Facility is a “site” at which materials including metal and chemical wastes, burn debris, and demolition debris have been “disposed,” as those two terms are defined in Section 3.185 and 3.460 of the Act, 415 ILCS 5/3.185 and 3.460 (2022), and the Facility is therefore a “disposal site” as that term is used in Section 3.305 of the Act, 415 ILCS 5/3.305 (2022).

125. Section 3.445 of the Act, 415 ILCS 5/3.445 (2022), provides the following definition:

“Sanitary landfill” means a facility permitted by the Agency for the disposal of waste on land meeting the requirements of the Resource Conservation and Recovery Act, and regulations thereunder, and without creating nuisances or hazards to public health or safety, by confining 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.

126. At all times relevant to this Complaint, the Facility was not permitted by the Illinois EPA for the disposal of waste and thus did not fulfill the requirements of a “sanitary landfill” as that term is defined in Section 3.445 of the Act, 415 ILCS 5/3.445 (2022).

127. Defendant JET’s disposal of waste at the Facility does not fulfill the requirements of a sanitary landfill, thereby constituting “open dumping” of waste as that term is defined in Section 3.305 of the Act, 415 ILCS 5/3.305 (2022).

128. By causing or allowing the open dumping of waste, Defendant JET has violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2022).

129. Violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter an order in favor of the Plaintiff and against Defendant, JET ENTERPRISES & HOLDING CO., on Count II:

- A. Finding that Defendant has violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2022);
- B. Enjoining Defendant from further violation of Section 21(a) of the Act, 415 ILCS 5/21(a) (2022);
- C. Ordering Defendant to immediately undertake the necessary corrective action that will result in a final and permanent abatement of violations of Section 21(a) of the Act, 415 ILCS 5/21(a) (2022), including, but not limited to, submitting to Illinois EPA for its review and approval

a plan for conducting an investigation of the Facility and surrounding areas to determine the extent of contamination and completing all necessary remedial work under Illinois EPA oversight;

D. Assessing against Defendant a civil penalty of Fifty Thousand Dollars (\$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 Ten Thousand Dollars (\$10,000.00) for each day each violation continued, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2022);

E. Awarding to Plaintiff its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022); and

F. Ordering such other and further relief as the Court deems appropriate and just.

COUNT III
OPEN DUMPING RESULTING IN LITTER

1-128. Plaintiff re-alleges and reincorporates by reference herein paragraph 1 of Count II, paragraphs 2 through 112 of Count I, and paragraphs 113 through 128 of Count II as paragraphs 1 through 128 of this Count III.

129. 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;

130. 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.

131. Discarded items present at the Facility on November 9, 2023, and on dates better known by Defendant JET, including, but not limited, to siding, rubber hoses, and household trash constitute “litter” as that term is defined in Section 3(a) of the Litter Control Act, 415 ILCS 105/3(a) (2022).

132. On or before November 9, 2023, and on dates better known to the respective Defendant JET, Defendant JET caused or allowed the open dumping of waste at the Facility in violation of Section 21(a) of the Act, 415 ILCS 5/21(a) (2022), in a manner that resulted in litter.

133. By causing or allowing the open dumping of waste in a manner that resulted in litter, Defendant JET violated Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2022).

134. Violations of the pertinent environmental statutes will continue unless and until this Court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter an order in favor of Plaintiff and against Defendant, JET ENTERPRISES & HOLDING CO., LLC, on Count III:

A. Finding that Defendant has violated Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2022);

B. Enjoining Defendant from further violation of Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2022);

C. Ordering Defendant to immediately undertake the necessary corrective action that will result in a final and permanent abatement of violations of Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2022), including, but not limited to, submitting to Illinois EPA for its review and approval

a plan for conducting an investigation of the Facility and surrounding areas to determine the extent of contamination and completing all necessary remedial work under Illinois EPA oversight;

D. Assessing against Defendant a civil penalty of Fifty Thousand Dollars (\$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 Ten Thousand Dollars (\$10,000.00) for each day each violation continued;

E. Awarding to Plaintiff its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022); and

F. Ordering such other and further relief as the Court deems appropriate and just.

COUNT IV
OPEN DUMPING OF DEMOLITION DEBRIS

1-128. Plaintiff re-alleges and reincorporates by reference herein paragraph 1 of Count II, paragraphs 2 through 112 of Count I, and paragraphs 113 through 128 of Count II as paragraphs 1 through 128 of this Count IV.

129. Section 21(p)(7) of the Act, 415 ILCS 5/21(p)(7) (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:

* * *

(7) deposition of:

(i) general construction or demolition debris as defined in Section 3.160(a) of this Act[.]

130. Section 3.160(a) of the Act, 415 ILCS 5/3.160(a) (2022), provides the following definition:

(a) “General construction or demolition debris” means non-hazardous, uncontaminated materials resulting from the construction, remodeling, repair, and demolition of utilities, structures, and roads,

limited to the following: bricks, concrete, and other masonry materials; soil; rock; wood, including non-hazardous painted, treated, and coated wood and wood products; wall coverings; plaster; drywall; plumbing fixtures; non-asbestos insulation; roofing shingles and other roof coverings; reclaimed or other asphalt pavement; glass; plastics that are not sealed in a manner that conceals waste; electrical wiring and components containing no hazardous substances; and corrugated cardboard, piping or metals incidental to any of those materials.

131. During the November 9, 2023 inspection, the Illinois EPA inspectors observed demolition debris in various areas of the site, including, but not limited to, debris dumped north of the Effluent Treatment Plant including, but not limited to, railroad ties, piping, metal, and foam insulation; dimensional lumber, metal, fiberglass piping, and siding, in multiple large piles in the Vacant North Area; and dimensional lumber, broken pipes, roofing material, and concrete with protruding rebar, found in large piles in the Former Electrolyzing Department.

132. The demolition debris that Illinois EPA inspectors observed during the November 9, 2023 inspection constitutes “general construction or demolition debris” as that term is defined by Section 3.160(a) of the Act, 415 ILCS 5/3.160(a) (2022).

133. On or before November 9, 2023, and on dates better known to Defendant JET, Defendant JET caused or allowed the open dumping of demolition waste at the Facility, in violation of Section 21(a) of the Act, 415 ILCS 5/21(a) (2022), in a manner that resulted in the deposition of general construction or demolition debris at the Facility.

134. By causing or allowing the open dumping of waste on the Facility in a manner that resulted in the deposition of general construction or demolition debris, Defendant JET violated Section 21(p)(7) of the Act, 415 ILCS 5/21(p)(7) (2022).

135. Violations of the pertinent environmental statutes will continue unless and until this Court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter an order in favor of Plaintiff and against Defendant, JET ENTERPRISES & HOLDING CO., LLC, on Count IV:

A. Finding that Defendant has violated Section 21(p)(7) of the Act, 415 ILCS 5/21(p)(7) (2022);

B. Enjoining Defendant from further violation of Section 21(p)(7) of the Act, 415 ILCS 5/21(p)(7) (2022);

C. Ordering Defendant to immediately undertake the necessary corrective action that will result in a final and permanent abatement of violations of Section 21(p)(7) of the Act, 415 ILCS 5/21(p)(7) (2022), including, but not limited to, submitting to Illinois EPA for its review and approval a plan for conducting an investigation of the Facility and surrounding areas to determine the extent of contamination and completing all necessary remedial work under Illinois EPA oversight;

D. Assessing against Defendant a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Section 21(p)(7) of the Act, 415 ILCS 5/21(p)(7) (2022), and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day each violation continued;

E. Awarding to Plaintiff its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022); and

F. Ordering such other and further relief as the Court deems appropriate and just.

COUNT V
OPEN DUMPING OF WASTE IN STANDING WATERS

1-128. Plaintiff re-alleges and reincorporates by reference herein paragraph 1 of Count II, and paragraphs 2 through 112 of Count I, and paragraphs 113 through 128 of Count II as paragraphs 1 through 128 of this Count V.

129. Section 21(p)(4) of the Act, 415 ILCS 5/21(p)(4) (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:

* * *

(4) deposition of waste in standing or flowing waters[.]

130. During the November 9, 2023 inspection, Illinois EPA observed that stormwater discharge had been flowing from the area of missing containment for the Stormwater Tank into the Vacant North Area.

131. During the November 9, 2023 inspection, Illinois EPA observed that hemp bales and Yellow-Green Waste in the Vacant North Area were in contact with water and causing discoloration of the water.

132. The presence of hemp bales and Yellow-Green Waste in the Vacant North Area, which were observed to be in contact with water in the Vacant North Area, constitutes the deposition of waste in standing or flowing waters in violation of Section 21(p)(4) of the Act, 415 ILCS 5/21(p)(4).

133. On or before November 9, 2023, and on dates better known to Defendant JET, Defendant JET caused or allowed the open dumping of waste, in violation of Section 21(a) of the

Act, 415 ILCS 5/21(a) (2022), in a manner that resulted in the deposition of waste in standing or flowing waters.

134. By causing or allowing the open dumping of waste on the Facility in a manner that resulted in the deposition of waste in standing or flowing waters, Defendant JET violated Section 21(p)(4) of the Act, 415 ILCS 5/21(p)(4) (2022).

135. Violations of the pertinent environmental statutes will continue unless and until this Court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter an order in favor of Plaintiff and against Defendant, JET ENTERPRISES & HOLDING CO., LLC, on Count V:

A. Finding that Defendant has violated Section 21(p)(4) of the Act, 415 ILCS 5/21(p)(4) (2022);

B. Enjoining Defendant from further violation of Section 21(p)(4) of the Act, 415 ILCS 5/21(p)(4) (2022);

C. Ordering Defendant to immediately undertake the necessary corrective action that will result in a final and permanent abatement of violations of Section 21(p)(4) of the Act, 415 ILCS 5/21(p)(4) (2022), including, but not limited to, submitting to Illinois EPA for its review and approval a plan for conducting an investigation of the Facility and surrounding areas to determine the extent of contamination and completing all necessary remedial work under Illinois EPA oversight;

D. Assessing against Defendant a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Section 21(p)(7) of the Act, 415 ILCS 5/21(p)(7) (2022), and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day each violation continued;

E. Awarding to Plaintiff its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022); and

F. Ordering such other and further relief as the Court deems appropriate and just.

COUNT VI
WATER POLLUTION

1-112. Plaintiff re-alleges and reincorporates by reference herein paragraph 1 of Count II and paragraphs 2 through 112 of Count I as paragraphs 1 through 112 of this Count VI.

113. Groundwater at the Facility is located at a depth ranging from two (2) feet to nineteen (19) feet below ground surface.

114. Section 12(a) of the Act, 415 ILCS 5/12(a) (2022), provides as follows:

No person shall:

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

115. Section 3.165 of the Act, 415 ILCS 5/3.165 (2022), provides the following definition:

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

116. The Yellow-Green Waste, hemp bales, and Stormwater Discharge containing metals are all “contaminants” as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2022).

117. Contaminants described above may adhere to soils and leach to groundwater.

118. Section 3.545 of the Act, 415 ILCS 5/3.545 (2022), provides the following definition:

“Water pollution” is such alteration of the physical, thermal, chemical, biological or radioactive properties of any waters of the State, or such discharge of any contaminant into any waters of the State, as will or is likely to create a nuisance or render such waters harmful or detrimental or

injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

119. Section 3.550 of the Act, 415 ILCS 5/3.550 (2022), provides the following definition:

“Waters” means all accumulations of water, surface and underground, natural, and artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon this State.

120. The accumulated water in the Vacant North Area is a “water” as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2022).

121. Groundwater at and around the Facility is “waters” as that term is defined by Section 3.550 of the Act, 415 ILCS 5/3.550 (2022).

122. The Stormwater Discharge containing contaminants in the form of heavy metals flowing into the Vacant North Area where the Stormwater Discharge pooled and came into contact with additional contaminants in the form of Yellow-Green Waste and hemp bales, in such a manner that the Stormwater Discharge could come into contact with groundwater, constitutes the alteration of the physical, thermal, chemical, biological or radioactive properties of waters that will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare, and therefore is “water pollution” as that term is defined in Section 3.545 of the Act, 415 ILCS 5/3.545 (2022).

123. On or before November 9, 2023, and on dates better known to Defendant, Defendant JET caused, threatened, or allowed the discharge of water that contained metals from the Facility into waters of the State.

124. By causing, threatening, or allowing the discharge of water that contained oil and metals from the Facility, Defendant JET caused, threatened, or allowed the discharge of

contaminants into the environment so as to cause or tend to cause water pollution in Illinois, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2022).

125. Violations of the pertinent environmental statutes will continue unless and until this Court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter an order in favor of Plaintiff and against Defendant, JET ENTERPRISES & HOLDING CO., LLC, on Count VI:

- A. Finding that Defendant violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2022);
- B. Enjoining Defendant from further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2022);
- C. Ordering the Defendant to take immediate action to correct the violations of Sections 12(a) of the Act, 415 ILCS 5/12(a) (2022), including, but not limited to, properly disposing of the Yellow-Green Waste and hemp bales and repairing containment of the Stormwater Tank to prevent stormwater discharge from freely flowing from the Stormwater Tank;
- D. Assessing against Defendant a civil penalty of \$50,000.00 for each violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2022), and an additional civil penalty of \$10,000.00 for each day each violation continued, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2022);
- E. Assessing all costs against Defendant, including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022); and
- F. Granting such other relief as this Court deems appropriate and just.

COUNT VII
CONDUCTING HAZARDOUS WASTE OPERATIONS
WITHOUT A RCRA PERMIT

1-118. Plaintiff re-alleges and reincorporates by reference herein paragraph 1 of Count II, paragraphs 2 through 112 of Count I, and paragraphs 114, 115, 118, 119, 122, and 123 of Count II as paragraphs 1 through 118 of this Count VII.

119. Section 21(f)(1) of the Act, 415 ILCS 5/21(f)(1) (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

120. Section 703.121(a)(1) of the Illinois Pollution Control Board (“Board”) Regulations, 35 Ill. Adm. Code 703.121(a)(1), provides 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

121. Section 702.110 of the Board Regulations, 35 Ill. Adm. Code 702.110, provides the following definitions:

“Disposal” (RCRA) means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any hazardous waste into or on any land or water so that such hazardous waste or any constituent of the waste may enter the environment or be emitted into the air or discharged into any waters, including groundwater.

* * *

“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).

* * *

“Owner or operator” means the owner or operator of any facility or activity subject to regulation under the RCRA or UIC program.

* * *

“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.

122. 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. ***

123. 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:

* * *

2) It meets any of the following criteria:

A) It exhibits any of the characteristics of hazardous waste identified in Subpart C. However, any mixture of a waste from the extraction, beneficiation, and processing of ores and minerals excluded pursuant to Section 721.104(b)(7) and any other solid waste exhibiting a characteristic of hazardous waste pursuant to Subpart C is a hazardous waste only if it exhibits a characteristic that would not have been exhibited by the excluded waste alone if such mixture had not occurred, or if the mixture continues to exhibit any of the characteristics exhibited by the non-excluded wastes prior to mixture. Further, for the purposes of applying the toxicity characteristic to such mixtures, the mixture is also a hazardous waste if it exceeds the maximum

concentration for any contaminant listed in Section 721.124 that would not have been exceeded by the excluded waste alone if the mixture had not occurred or if it continues to exceed the maximum concentration for any contaminant exceeded by the nonexempt waste prior to mixture.

* * *

- D) It is a mixture of solid waste and one or more hazardous wastes listed in Subpart D 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); however, the following mixtures of solid wastes and hazardous wastes listed in Subpart D are not hazardous wastes (except by application of subsection (a)(2)(A) or (a)(2)(B)) if the generator demonstrates that the mixture consists of wastewater the discharge of which is subject to regulation under either 35 Ill. Adm. Code 309 or 310 (including wastewater at facilities that have eliminated the discharge of wastewater) and the following is true of the waste:

* * *

- iv) It is a discarded hazardous waste, commercial chemical product or chemical intermediate listed in Section 721.121, 721.132, or 721.133 arising from de minimis losses of these materials. For purposes of this subsection (a)(2)(D)(iv), "de minimis" losses are inadvertent releases to a wastewater treatment system, including those from normal material handling operations (e.g., spills from the unloading or transfer of materials from bins or other containers, leaks from pipes, valves, or other devices used to transfer materials); minor leaks of process equipment, storage tanks, or containers; leaks from well-maintained pump packings and seals; sample purgings; relief device discharges; discharges from safety showers and rinsing and cleaning of personal safety equipment; and rinsate from empty containers or from containers that are rendered empty by that rinsing. Any manufacturing facility that claims an exemption for de minimis quantities of a waste listed in Section 721.131 or 721.132, or any nonmanufacturing facility that claims an

exemption for de minimis quantities of wastes listed in Subpart D, must either have eliminated the discharge of wastewaters or have included in its federal Clean Water Act (33 USC 1251 et seq.) permit application or wastewater pretreatment submission to the Agency or the wastewater pretreatment Control Authority pursuant to 35 Ill. Adm. Code 307 of the constituents for which each waste was listed (in Appendix G); and the constituents in Table T to 35 Ill. Adm. Code 728 for which each waste has a treatment standard (i.e., land disposal restriction constituents). A facility is eligible to claim the exemption once the Agency or Control Authority has been notified of possible de minimis releases via the Clean Water Act permit application or the wastewater pretreatment submission. A copy of the Clean Water Act permit application or the wastewater pretreatment submission must be placed in the facility's on-site files;

124. Section 3.480 of the Act, 415 ILCS 5/3.480 (2022), provides the following definition:

“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.

Toxic Wastes

125. Section 721.124(b) of the Board Regulations, 35 Ill. Adm. Code 721.124(b), which is within Subpart C of Part 721 of the Board Regulations, provides, in pertinent part, as follows:

- a) A solid waste (except manufactured gas plant waste) exhibits the characteristic of toxicity if, using Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in “Test Methods for Evaluating Solid Waste, Physical/Chemical Methods”, USEPA publication number EPA-530/SW-846, as incorporated by reference in 35 Ill. Adm. Code 720.111(a), the extract from a representative sample of the waste contains any of the contaminants listed in the table in subsection (b) at a concentration equal to or greater than the respective value given in that table.

* * *

- b) A solid waste that exhibits the characteristic of toxicity has the USEPA hazardous waste number specified in the following table that corresponds to the toxic contaminant causing it to be hazardous.

MAXIMUM CONCENTRATION OF CONTAMINANTS FOR THE TOXICITY CHARACTERISTIC

USEPA Hazardous Waste No.	Contaminant	CAS Number	Note	Regulatory Level (mg/ℓ)
D004	Arsenic	7440-38-2		5.0
* * *				
D006	Cadmium	7440-43-9		1.0
* * *				
D008	Lead	7439-92-1		5.0
* * *				

Yellow-Green Waste

126. During the November 9, 2023 inspection, the Illinois EPA inspectors observed loose piles of a very light, yellow-green ceramic-like material (“the Yellow-Green Waste”) on the floor of the Skimmings Building.

127. During the November 9, 2023 inspection, the Illinois EPA inspectors took a sample of the Yellow-Green Waste from the Skimmings Building. Upon laboratory testing according to the TCLP the sample exceeded regulatory levels for arsenic and cadmium, as set forth below:

Constituent	Regulatory Level (mg/L)	Yellow-Green Waste from Skimmings Building
Arsenic	5.0	6.7
Cadmium	1.0	4.91

128. The Yellow-Green Waste is discarded material and therefore “solid waste” as that term is defined in Section 721.102 of the Board Regulations, 35 Ill. Adm. Code 721.102.

129. Because the Yellow-Green Waste exceeds the regulatory levels for arsenic and cadmium listed in the table in Section 721.124(b) of the Board Regulations, 35 Ill. Adm. Code

721.124(b), when tested by TCLP, it exhibits the characteristic of toxicity as defined in Section 721.124(a) of the Board Regulations, 35 Ill. Adm. Code 721.124(a).

130. Because the Yellow-Green Waste is a solid waste that exhibits the characteristic of toxicity, it is a “hazardous waste” as that term is defined in Section 721.103(a)(2)(A) of the Board Regulations, 35 Ill. Adm. Code 721.103(a)(2)(A).

Red Sludge

131. During the November 9, 2023 inspection, the Illinois EPA inspectors observed a Red Sludge on the ground in the Vacant North Area, near a trailer west of the Stormwater Tank (“the Red Sludge”), in an area of dead and stressed vegetation.

132. During the November 9, 2023 inspection, the Illinois EPA inspectors took samples of the Red Sludge from in front of and behind the trailer. Upon laboratory testing according to the TCLP procedure, the samples exceeded the regulatory level for cadmium, and one sample exceeded the regulatory level for lead, as detailed below:

Constituent	Regulatory Level (mg/L)	Red Sludge in front of trailer	Red Sludge behind trailer
Cadmium	1.0	5.50	13.3
Lead	5.0	3.27	21.4

133. The Red Sludge is discarded material and therefore “solid waste” as that term is defined in Section 721.102 of the Board Regulations, 35 Ill. Adm. Code 721.102.

134. Because the Red Sludge exceeds the regulatory levels for cadmium and lead listed in the table in Section 721.124(b) of the Board Regulations, 35 Ill. Adm. Code 721.124(b), when tested by TCLP, it exhibits the characteristic of toxicity as defined in Section 721.124(a) of the Board Regulations, 35 Ill. Adm. Code 721.124(a).

135. Because the Red Sludge is a solid waste that exhibits the characteristic of toxicity, it is a “hazardous waste” as that term is defined in Section 721.103(a)(2)(A) of the Board Regulations, 35 Ill. Adm. Code 721.103(a)(2)(A).

CSB Sludges

136. During the November 9, 2023 inspection, the Illinois EPA inspectors observed a greenish-gray sludge and a brown sludge (“the CSB Sludges”) on the floor of Bay 2 of the CSB, which is open to the elements.

137. During the November 9, 2023 inspection, the Illinois EPA inspectors took two samples of the CSB Sludges. Upon laboratory analysis according to the TCLP procedure, both samples exceeded regulatory levels for arsenic and cadmium, and one also exceeded the regulatory level for lead, as detailed below:

Constituent	Regulatory Level (mg/L)	Greenish-gray CSB sludge	Brown CSB sludge
Arsenic	5.0	30.6	18.9
Cadmium	1.0	4.32	1.94
Lead	5.0	7.87	0.384

138. The CSB Sludges are discarded material and therefore “solid waste” as that term is defined in Section 721.102 of the Board Regulations, 35 Ill. Adm. Code 721.102.

139. Because the CSB Sludges exceed the regulatory levels for arsenic, cadmium, and lead listed in the table in Section 721.124(b) of the Board Regulations, 35 Ill. Adm. Code 721.124(b), when tested by TCLP, they exhibit the characteristic of toxicity as defined in Section 721.124(a) of the Board Regulations, 35 Ill. Adm. Code 721.124(a).

140. Because the CSB Sludges are solid waste that exhibits the characteristic of toxicity, they are “hazardous waste” as that term is defined in Section 721.103(a)(2)(A) of the Board Regulations, 35 Ill. Adm. Code 721.103(a)(2)(A).

Hazardous Sand

141. During the November 9, 2023 inspection, the Illinois EPA inspectors observed a sand-like material that had been spread over the Sand Area, to the north, south, and west of the Calcine Silos (“the Hazardous Sand”).

142. During the November 9, 2023 inspection, the Illinois EPA inspectors took two samples of the Hazardous Sand: one composite sample (consisting of multiple subsamples from around the area) and one grab sample. Upon laboratory analysis according to the TCLP procedure, both samples exceeded regulatory levels for cadmium, and one also exceeded the regulatory level for lead, as detailed below:

Constituent	Regulatory Level (mg/L)	Hazardous Sand composite sample	Hazardous Sand grab sample
Cadmium	1.0	3.22	3.79
Lead	5.0	5.26	1.52

143. The Hazardous Sand is discarded material and therefore “solid waste” as that term is defined in Section 721.102 of the Board Regulations, 35 Ill. Adm. Code 721.102.

144. Because the Hazardous Sand exceeds the regulatory levels for cadmium and lead listed in the table in Section 721.124(b) of the Board Regulations, 35 Ill. Adm. Code 721.124(b), when tested by TCLP, it exhibits the characteristic of toxicity as defined in Section 721.124(a) of the Board Regulations, 35 Ill. Adm. Code 721.124(a).

145. Because the Hazardous Sand is a solid waste that exhibits the characteristic of toxicity, it is a “hazardous waste” as that term is defined in Section 721.103(a)(2)(A) of the Board Regulations, 35 Ill. Adm. Code 721.103(a)(2)(A).

PEA Wastes

146. During the November 9, 2023 inspection, the Illinois EPA inspectors observed that a portion of the concrete berm surrounding the Plant Effluent Area (a former surface impoundment) had been demolished, and the waste had been piled north of the Plant Effluent Area.

147. During the November 9, 2023 inspection, the Illinois EPA inspectors took a sample of the berm debris north of the Plant Effluent Area, and of the floor of the Plant Effluent Area (collectively “the PEA Wastes”). Upon laboratory analysis according to the TCLP procedure, both samples exceeded regulatory levels for cadmium, and one also exceeded the regulatory level for lead, as detailed below:

Constituent	Regulatory Level (mg/L)	Berm debris	PEA floor
Cadmium	1.0	2.65	7.25
Lead	5.0	5.05	4.30

148. The PEA Wastes are discarded material and therefore “solid waste” as that term is defined in Section 721.102 of the Board Regulations, 35 Ill. Adm. Code 721.102.

149. Because the PEA Wastes exceed the regulatory levels for cadmium and lead listed in the table in Section 721.124(b) of the Board Regulations, 35 Ill. Adm. Code 721.124(b), when tested by TCLP, they exhibit the characteristic of toxicity as defined in Section 721.124(a) of the Board Regulations, 35 Ill. Adm. Code 721.124(a).

150. Because the PEA Wastes are solid waste that exhibits the characteristic of toxicity, they are “hazardous waste” as that term is defined in Section 721.103(a)(2)(A) of the Board Regulations, 35 Ill. Adm. Code 721.103(a)(2)(A).

Abandoned Cadmium Oxide

151. During the November 9, 2023 inspection, the Illinois EPA inspectors observed abandoned open and closed containers labeled “Cadmium Oxide” in the Cadmium Plant.

152. The abandoned containers labeled “Cadmium Oxide” observed in the Cadmium Plant (“the Abandoned Cadmium Oxide”) are discarded material and therefore “solid waste” as that term is defined in Section 721.102 of the Board Regulations, 35 Ill. Adm. Code 721.102.

253. The labels on the abandoned containers indicate that the Abandoned Cadmium Oxide contains cadmium at concentrations above the regulatory levels stated in Section 721.124(b) of the Board Regulations, 35 Ill. Adm. Code 721.124(b), and therefore to exhibit the characteristic of toxicity as defined in Section 721.124(a) of the Board Regulations, 35 Ill. Adm. Code 721.124(a).

154. Because the Abandoned Cadmium Oxide is solid waste that exhibits the characteristic of toxicity, it is hazardous waste as that term is defined in Section 721.103(a)(2)(A) of the Board Regulations, 35 Ill. Adm. Code 721.103(a)(2)(A).

Corrosive Wastes

155. During the November 9, 2023 inspection, in the Cadmium Plant and the Test Lab, the Illinois EPA inspectors observed buckets, cans, and drums that were placarded as corrosive or labeled as containing highly corrosive chemicals, including but not limited to potassium hydroxide, hydrochloric acid, and sulfuric acid (collectively “the Corrosive Wastes”).

156. The Corrosive Wastes are discarded material and therefore “solid waste” as that term is defined in Section 721.102 of the Board Regulations, 35 Ill. Adm. Code 721.102.

157. According to the safety data sheets (“SDS”), the observed Corrosive Wastes are likely to exhibit the characteristic of corrosivity as defined in Section 721.122 of the Board Regulations, 35 Ill. Adm. Code 721.122.

158. Because they are solid waste and exhibit the characteristic of corrosivity, the Corrosive Wastes are “hazardous waste” as that term is defined in Section 721.103(a)(2)(A) of the Board Regulations, 35 Ill. Adm. Code 721.103(a)(2)(A).

Ignitable Wastes

159. Section 721.121 of the Board Regulations, 35 Ill. Adm. Code 721.121, provides in pertinent 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:
 - * * *
 - 4) It is an oxidizer, as defined in 49 CFR 173.127 (Class 5, Division 5.1—Definition and Assignment of Packaging Group), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

160. The buckets of Spectrus OX103 observed in the Cadmium Plant (“the Ignitable Waste”) are discarded material and therefore “solid waste” as that term is defined in Section 721.102 of the Board Regulations, 35 Ill. Adm. Code 721.102.

161. Spectrus OX103 is an oxidizer and therefore exhibits the characteristic of ignitability under Section 721.121(a)(4) of the Board Regulations, 35 Ill. Adm. Code 721.121(a)(4).

162. Because the Ignitable Waste is a solid waste that exhibits the characteristic of ignitability, it is a “hazardous waste” as that term is defined in Section 721.103(a)(2)(A) of the Board Regulations, 35 Ill. Adm. Code 721.103(a)(2)(A).

Listed Hazardous Wastes

163. During the November 9, 2023 inspection, the Illinois EPA inspectors observed a closed one-liter bottle labeled “chloroform” in the Test Lab.

164. During the November 9, 2023 inspection, the Illinois EPA inspectors observed multiple closed 2.5-liter containers labeled “cyclohexane” in the Test Lab.

165. The containers of chloroform and cyclohexane observed in the Test Lab are discarded material and therefore “solid waste” as that term is defined in Section 721.102 of the Board Regulations, 35 Ill. Adm. Code 721.102.

166. Chloroform and cyclohexane (collectively “the Listed Hazardous Wastes”) are listed as hazardous wastes in Section 721.133(f) of the Board Regulations, 35 Ill. Adm. Code 721.133(f), which is within Subpart D of Part 721 of the Board Regulations.

167. Because the Listed Hazardous Wastes are solid wastes that are listed in Subpart D of Part 721 of the Board Regulations, they are “hazardous wastes” as that term is defined in Section 721.103 of the Board Regulations, 35 Ill. Adm. Code 721.103.

Unknown Hazardous Wastes

168. During the November 9, 2023 inspection, the Illinois EPA inspectors observed two 55-gallon drums labeled “Hazardous Waste,” in the Cadmium Plant.

169. The drums labeled “Hazardous Waste” observed in the Cadmium Plant are discarded material and are therefore “solid waste” as that term is defined in Section 721.102 of the Board Regulations, 35 Ill. Adm. Code 721.102.

170. The contents of the drums labeled “Hazardous Waste” (“Unknown Hazardous Wastes”) are unknown but the labels indicate them to be hazardous waste as defined in Section 721.103 of the Board Regulations, 35 Ill. Adm. Code 721.103.

171. Because the Yellow-Green Waste, Red Sludge, CSB Sludges, Hazardous Sand, PEA Wastes, Abandoned Cadmium Oxide, Reactive Wastes, Corrosive Wastes, Ignitable Waste, Listed Hazardous Wastes, and Unknown Hazardous Wastes are each a “hazardous waste” as that

term is defined in Section 721.103 of the Board Regulations, 35 Ill. Adm. Code 721.103, they are also “hazardous waste” as that term is defined in Section 702.110 of the Board Regulations, 35 Ill. Adm. Code 702.110, and in Section 3.220 of the Act, 415 ILCS 5/3.220 (2022).

172. Defendant JET has caused or allowed hazardous wastes, including the Yellow-Green Waste, Red Sludge, CSB Sludges, Hazardous Sand, PEA Wastes, Abandoned Cadmium Oxide, Reactive Wastes, Corrosive Wastes, Ignitable Waste, Listed Hazardous Wastes, and Unknown Hazardous Wastes, either to be abandoned on the Site, and therefore “disposed,” or held on the Site without disposal, and therefore “stored,” as those terms are respectively defined Sections 3.185 and 3.480 of Act, 415 ILCS 5/3.185 and 3.480 (2022).

173. By causing or allowing hazardous wastes, including the Yellow-Green Waste, Red Sludge, CSB Sludges, Hazardous Sand, PEA Wastes, Abandoned Cadmium Oxide, Reactive Wastes, Corrosive Wastes, Ignitable Waste, Listed Hazardous Wastes, and Unknown Hazardous Wastes, to be either stored or disposed at the Site, Defendant JET is conducting a hazardous waste-disposal and/or hazardous waste-storage operation at the Site.

174. The Site is a contiguous area of land and improvements on the land that is used for treating, storing, or disposing of hazardous waste, and is therefore a “hazardous waste management facility” as that term is defined in Section 702.110 of the Board Regulations, 35 Ill. Adm. Code 702.110.

175. Defendant JET owns and operates the Site and is therefore an “owner or operator” of the Site as that term is defined in Section 702.110 of the Board regulations, 35 Ill. Adm. Code 702.110.

176. Beginning no later than November 9, 2023, and on dates better known to Defendant JET, Defendant JET conducted a hazardous waste-disposal or hazardous waste-storage operation at the Site without a RCRA permit.

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

178. Violations of the pertinent environmental statutes will continue unless and until this Court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter an order in favor of the Plaintiff and against Defendant, JET ENTERPRISES & HOLDING CO., LLC, on Count VII:

A. Finding that Defendant has violated Section 21(f)(1) of the Act, 415 ILCS 5/21(f)(1) (2022), and Section 703.121(a)(1) of the Board Regulations, 35 Ill. Adm. Code 703.121(a)(1);

B. Enjoining Defendant from further violation of Section 21(f)(1) of the Act, 415 ILCS 5/21(f)(1) (2022), and Section 703.121(a)(1) of the Board Regulations, 35 Ill. Adm. Code 703.121(a)(1);

C. Ordering Defendant to immediately undertake the necessary corrective action that will result in a final and permanent abatement of violations of Section 21(f)(1) of the Act, 415 ILCS 5/21(f)(1) (2022), and Section 703.121(a)(1) of the Board Regulations, 35 Ill. Adm. Code 703.121(a)(1), including but not limited to properly containerizing and disposing of all hazardous

wastes at the Facility, including without limitation chemicals stored in the Test Lab, Cadmium Plant, and all other storage buildings, at a facility permitted to accept them;

D. Assessing against Defendant a civil penalty of Twenty-Five Thousand Dollars (\$25,000.00) for each day of each violation of Section 21(f)(1) of the Act, 415 ILCS 5/21(f)(1) (2022), and Section 703.121(a)(1) of the Board Regulations, 35 Ill. Adm. Code 703.121(a)(1), pursuant to Section 42(b)(3) of the Act, 415 ILCS 5/42(b)(3) (2022);

E. Awarding to the Plaintiff its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022); and

F. Ordering such other and further relief as the Court deems appropriate and just.

COUNT VIII
FAILURE TO CONDUCT WASTE ANALYSES

1-177. Plaintiff re-alleges and reincorporates by reference herein paragraph 1 of Count II, paragraphs 2 through 112 of Count I, paragraphs 114, 115, 118, 119, 122 and 123 of Count II, and paragraphs 119 through 177 of Count VIII as paragraphs 1 through 177 of this Count VIII.

178. Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022), provides as follows:

No person shall:

- (f) Conduct any hazardous waste-storage, hazardous waste-treatment or hazardous waste-disposal operation:
 - (2) in violation of any regulations or standards adopted by the Board under this Act

179. Section 725.113 of the Board Regulations, 35 Ill. Adm. Code 725.113, provides, in pertinent part, as follows:

- a) Waste Analysis:

- 1) Before an owner or operator treats, stores, or disposes of any hazardous waste . . . the owner or operator must obtain a detailed chemical and physical analysis of a representative sample of the waste. At a minimum, the analysis must contain all the information that must be known to treat, store, or dispose of the waste in accordance with this Part and 35 Ill. Adm. Code 728.

180. Defendant JET failed to obtain a detailed chemical and physical analyses of representative samples of the chemicals stored in the Test Lab, Cadmium Plant, Pre-Leaching Plant, and in other storage areas.

181. Beginning no later than November 9, 2023, and on dates better known to Defendant JET, Defendant JET stored hazardous waste without obtaining a detailed chemical and physical analysis of a representative sample of the waste.

182. By failing to obtain detailed chemical and physical analyses of representative samples of the chemicals stored in the Test Lab, Cadmium Plant, Pre-Leaching Plant, and other storage areas, Defendant JET violated Section 725.113 of the Board Regulations, 35 Ill. Adm. Code 725.113, and thereby violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022).

183. Violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary, and, after a trial, permanent injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter an order in favor of the Plaintiff and against the Defendant, JET ENTERPRISES & HOLDING, CO., LLC, on Count VIII:

A. Finding that Defendant has violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022), and Section 725.113 of the Board Regulations, 35 Ill. Adm. Code 725.113;

B. Enjoining Defendant from further violation of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022), and Section 725.113 of the Board Regulations, 35 Ill. Adm. Code 725.113;

C. Ordering Defendant to immediately undertake the necessary corrective action that will result in a final and permanent abatement of violations of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022), and Section 725.113 of the Board Regulations, 35 Ill. Adm. Code 725.113, including, but not limited to, properly containerizing all chemicals present at the Facility, including but not limited to, in the Test Lab, Cadmium Plant, Pre-Leaching Plant, and other storage areas; creating a comprehensive inventory for all chemicals present at the Facility; and properly disposing of the chemicals at a facility permitted to accept them;

D. Assessing against Defendant a civil penalty of Twenty-Five Thousand Dollars (\$25,000.00) for each day of each violation of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022), and Section 725.113 of the Board Regulations, 35 Ill. Adm. Code 725.113, pursuant to Section 42(b)(3) of the Act, 415 ILCS 5/42(b)(3) (2022);

E. Awarding to Plaintiff its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022); and

F. Ordering such other and further relief as the Court deems appropriate and just.

COUNT IX
FAILURE TO CONDUCT INSPECTIONS

1-177. Plaintiff re-alleges and reincorporates by reference herein paragraph 1 of Count II, paragraphs 2 through 112 of Count I, paragraphs 114, 115, 118, 119, 122 and 123 of Count II, and paragraphs 119 through 177 of Count VIII as paragraphs 1 through 177 of this Count IX.

178. Section 725.115 of the Board Regulations, 35 Ill. Adm. Code 725.115, provides, in pertinent part, as follows:

- a) The owner or operator must inspect the facility for malfunctions and deterioration, operator errors and discharges that may be causing—or which may lead to—the conditions listed below. The owner or operator must conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment.
 - 1) Release of hazardous waste constituents to the environment, or
 - 2) A threat to human health.

179. Beginning no later than November 9, 2023, and on dates better known to Defendant JET, Defendant JET failed to inspect the Facility often enough to identify and correct problems, including open containers of chemicals, rusty containers, and ceiling degradation, that may cause or lead to a release of hazardous waste constituents to the environment or harm to human health.

180. By failing to inspect the Facility often enough to identify and correct problems that may cause or lead to a release of hazardous waste constituents to the environment or harm to human health, Defendant JET violated Section 725.115 of the Board Regulations, 35 Ill. Adm. Code 725.115, and thereby violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022).

181. Violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary, and, after a trial, permanent injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter an order in favor of the Plaintiff and against Defendant, JET ENTERPRISES & HOLDING CO., LLC, on Count IX:

A. Finding that Defendant has violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022), and Section 725.115 of the Board Regulations, 35 Ill. Adm. Code 725.115;

B. Enjoining Defendant from further violation of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022), and Section 725.115 of the Board Regulations, 35 Ill. Adm. Code 725.115;

C. Ordering Defendant to immediately undertake the necessary corrective action that will result in a final and permanent abatement of violations of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022), and Section 725.115 of the Board Regulations, 35 Ill. Adm. Code 725.115, including, but not limited to, properly containerizing the chemicals present at the Facility, including in the Cadmium Plant, Test Lab, and all other storage buildings; creating a comprehensive inventory for all chemicals present at the Facility; and properly disposing of all chemicals being stored in the Cadmium Plant, Test Lab, and all other storage buildings at a facility permitted to accept them;

D. Assessing against the Defendant a civil penalty of Twenty-Five Thousand Dollars (\$25,000.00) for each day of violation of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022), and Section 725.115 of the Board Regulations, 35 Ill. Adm. Code 725.115, pursuant to Section 42(b)(3) of the Act, 415 ILCS 5/42(b)(3) (2022);

E. Awarding to the Plaintiff its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022); and

F. Ordering such other and further relief as the Court deems appropriate and just.

COUNT X
FAILURE TO MINIMIZE POSSIBILITY OF RELEASES OF HAZARDOUS WASTES

1-177. Plaintiff re-alleges and reincorporates by reference herein paragraphs 1 of Count II, paragraphs 2 through 112 of Count I, paragraphs 114, 115, 118, 119, 122, and 123 of Count II, and paragraphs 119 through 177 of Count VIII as paragraphs 1 through 177 of this Count X.

178. Section 725.130 of the Board Regulations, 35 Ill. Adm. Code 725.130, provides as follows:

The regulations in this Subpart C apply to owners and operators of all hazardous waste facilities, except as Section 725.101 provides otherwise.

179. Section 725.131 of the Board Regulations, 35 Ill. Adm. Code 725.131, provides as follows:

Facilities must be maintained and operated to minimize the possibility of a fire, explosion or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil or surface water that could threaten human health or the environment.

180. By storing incompatible chemicals in close proximity, Defendant JET created a fire hazard.

181. Beginning no later than November 9, 2023, and on dates better known to the Defendant JET, Defendant JET failed to maintain and operate the Facility in a way to minimize the possibility of a fire, explosion or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil or surface water that could threaten human health or the environment.

182. By failing to maintain and operate the Facility in a way to minimize the possibility of a fire, explosion or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil or surface water that could threaten human health or the environment, Defendant JET violated Section 725.131 of the Board Regulations, 35 Ill. Adm. Code 725.131, and thereby violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022).

183. Violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary, and, after a trial, permanent injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter an order in favor of the Plaintiff and against the Defendants, JET ENTERPRISES & HOLDING, CO., LLC, on Count X:

A. Finding that Defendant has violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022), and Section 725.131 of the Board Regulations, 35 Ill. Adm. Code 725.131;

B. Enjoining Defendant from further violation of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022), and Section 725.131 of the Board Regulations, 35 Ill. Adm. Code 725.131;

C. Ordering Defendant to immediately undertake the necessary corrective action that will result in a final and permanent abatement of violations of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022), and Section 725.131 of the Board Regulations, 35 Ill. Adm. Code 725.131, properly containerizing the chemicals present at the Facility, including in the Cadmium Plant, Test Lab, and all other storage buildings; creating a comprehensive inventory for all chemicals present at the Facility; and properly disposing of all chemicals being stored in the Cadmium Plant, Test Lab, and all other storage buildings at a facility permitted to accept them;

D. Assessing against each Defendant a civil penalty of Twenty-Five Thousand Dollars (\$25,000.00) for each day of each violation of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022), and Section 725.131 of the Board Regulations, 35 Ill. Adm. Code 725.131, pursuant to Section 42(b)(3) of the Act, 415 ILCS 5/42(b)(3) (2022);

E. Awarding to Plaintiff its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022); and

F. Ordering such other and further relief as the Court deems appropriate and just.

COUNT XI
FAILURE TO EQUIP FACILITY WITH SAFETY EQUIPMENT

1-177. Plaintiff re-alleges and reincorporates by reference herein paragraphs 1 of Count II, paragraphs 2 through 112 of Count I, paragraphs 114, 115, 118, 119, 122, and 123 of Count II, and paragraphs 119 through 177 of Count VIII as paragraphs 1 through 177 of this Count XI.

178. Section 725.132 of the Board Regulations, 35 Ill. Adm. Code 725.132, provides, in pertinent part, as follows:

All facilities must be equipped with the following, unless none of the hazards posed by waste handled at the facility could require a particular kind of equipment specified below.

- a) An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel;
- b) A device, such as a telephone (immediately available at the scene of operations) or a hand-held two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or State or local emergency response teams;
- c) Portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as that using foam, inert gas or dry chemicals), spill control equipment and decontamination equipment; and
- d) Water at adequate volume and pressure to supply water hose streams or foam producing equipment or automatic sprinklers or water spray systems.

179. Beginning no later than November 9, 2023, and on dates better known to Defendant JET, Defendant JET failed to equip the Facility with an alarm system, a telephone, fire extinguishers, or a working sprinkler system at the Cadmium Plant or Test Lab where chemicals are stored.

180. By failing to equip the Cadmium Plant or Test Lab with working safety equipment, Defendant JET violated Section 725.132 of the Board Regulations, 35 Ill. Adm. Code 725.132, and thereby violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022).

181. Violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary, and, after a trial, permanent injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter an order in favor of the Plaintiff and against Defendant, JET ENTERPRISES & HOLDING, CO., LLC, on Count XI:

A. Finding that Defendant has violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022), and Section 725.132 of the Board Regulations, 35 Ill. Adm. Code 725.132;

B. Enjoining Defendant from further violation of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022), and Section 725.132 of the Board Regulations, 35 Ill. Adm. Code 725.132;

C. Ordering Defendant to immediately undertake the necessary corrective action that will result in a final and permanent abatement of violations of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022), and Section 725.132 of the Board Regulations, 35 Ill. Adm. Code 725.132, including, but not limited to, installing safety equipment in all buildings where hazardous wastes are being stored, including the Test Lab and Cadmium Plant;

D. Assessing against Defendant a civil penalty of Twenty-Five Thousand Dollars (\$25,000.00) for each day of each violation of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022), and Section 725.132 of the Board Regulations, 35 Ill. Adm. Code 725.132, pursuant to Section 42(b)(3) of the Act, 415 ILCS 5/42(b)(3) (2022);

E. Awarding to the Plaintiff its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022); and

F. Ordering such other and further relief as the Court deems appropriate and just.

COUNT XII
FAILURE TO MAINTAIN ADEQUATE AISLE SPACE

1-177. Plaintiff re-alleges and reincorporates by reference herein paragraphs 1 of Count II, paragraphs 2 through 112 of Count I, paragraphs 114, 115, 118, 119, 122, and 122 of Count II, and paragraphs 119 through 177 of Count VIII as paragraphs 1 through 177 of this Count XII.

178. Section 725.135 of the Board Regulations, 35 Ill. Adm. Code 725.135, provides as follows:

The owner or operator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

179. Beginning no later than November 9, 2023, and on dates better known to Defendant JET, Defendant JET failed to maintain adequate aisle space in the Facility, specifically in the buildings where chemicals are being stored, including the Cadmium Plant and Test Lab.

180. By failing to maintain adequate aisle space in the Facility, Defendant JET has violated Section 725.135 of the Board Regulations, 35 Ill. Adm. Code 725.135, and thereby violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022).

181. Violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary, and, after a trial, permanent injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter an order in favor of the Plaintiff and against Defendant, JET ENTERPRISES & HOLDING CO., LLC, an Illinois limited liability company, on Count XII:

A. Finding that Defendant has violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022), and Section 725.135 of the Board Regulations, 35 Ill. Adm. Code 725.135;

B. Enjoining Defendant from further violation of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022), and Section 725.135 of the Board Regulations, 35 Ill. Adm. Code 725.135;

C. Ordering Defendant to immediately undertake the necessary corrective action that will result in a final and permanent abatement of violations of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022), and Section 725.135 of the Board Regulations, 35 Ill. Adm. Code 725.135, including, but not limited to, properly containerizing and storing all chemicals in the Test Lab and Cadmium Plant so as to create appropriate aisle space;

D. Assessing against Defendant a civil penalty of Twenty-Five Thousand Dollars (\$25,000.00) for each day of each violation of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022), and Section 725.135 of the Board Regulations, 35 Ill. Adm. Code 725.135, pursuant to Section 42(b)(3) of the Act, 415 ILCS 5/42(b)(3) (2022);

E. Awarding to the Plaintiff its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022); and

F. Ordering such other and further relief as the Court deems appropriate and just.

COUNT XIII
IMPROPER STORAGE OF HAZARDOUS WASTE CONTAINERS

1-177. Plaintiff re-alleges and reincorporates by reference herein paragraphs 1 of Count II, paragraphs 2 through 112 of Count I, paragraphs 114, 115, 118, 119, 122, and 123 of Count II, and paragraphs 119 through 177 of Count VIII as paragraphs 1 through 177 of this Count XIII.

178. Section 725.273 of the Board Regulations, 35 Ill. Adm. Code 725.273, provides as follows:

- a) A container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.
- b) A container holding hazardous waste must not be opened, handled, or stored in a manner that may rupture the container or cause it to leak.

179. On November 9, 2023, and on dates better known to Defendant JET, Defendant JET stored open containers of hazardous wastes in the Test Lab.

180. On November 9, 2023, and on dates better known to Defendant JET, Defendant JET stored containers of hazardous waste in the Test Lab in a manner that created risks of rupture or leaking.

181. On November 9, 2023, and on dates better known to Defendant JET, Defendant JET stored containers labeled as containing hazardous waste in the Cadmium Plant, where the containers had been abandoned and covered in bird droppings, thereby creating risks of ruptures or leaks.

182. On November 9, 2023, and on dates better known to Defendant JET, Defendant JET stored piles of Yellow-Green Waste in the Skimmings Plant outside of any container.

183. By failing to store hazardous wastes in closed containers and in a manner to avoid risks of ruptures or leaks, Defendant JET violated Section 725.273 of the Board Regulations, 35 Ill. Adm. Code 725.273, and thereby violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022).

184. Violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary, and, after a trial, permanent injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter an order in favor of the Plaintiff and against the Defendant, JET ENTERPRISES & HOLDING CO., LLC, an Illinois limited liability company, on Count XIII:

A. Finding that Defendant has violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022), and Section 725.273 of the Board Regulations, 35 Ill. Adm. Code 725.273;

B. Enjoining Defendant from further violation of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022), and Section 725.273 of the Board Regulations, 35 Ill. Adm. Code 725.273;

C. Ordering Defendant to immediately undertake the necessary corrective action that will result in a final and permanent abatement of violations of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022), and Section 725.273 of the Board Regulations, 35 Ill. Adm. Code 725.273, including, but not limited to, properly containerizing and storing all hazardous wastes in the Test Lab, Cadmium Plant, Skimmings Plant, and all other buildings in closed containers and in a manner so as to prevent ruptures and leaks;

D. Assessing against the Defendant a civil penalty of Twenty-Five Thousand Dollars (\$25,000.00) for each day of violation of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022), and Section 725.135 of the Board Regulations, 35 Ill. Adm. Code 725.135, pursuant to Section 42(b)(3) of the Act, 415 ILCS 5/42(b)(3) (2022);

E. Awarding to the Plaintiff its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022); and

F. Ordering such other and further relief as the Court deems appropriate and just.

COUNT XIV
FAILURE TO INSPECT HAZARDOUS WASTE CONTAINERS

1-177. Plaintiff re-alleges and reincorporates by reference herein paragraphs 1 of Count II, paragraphs 2 through 112 of Count I, paragraphs 114, 115, 118, 119, 122, and 123 of Count II, and paragraphs 119 through 177 of Count VIII as paragraphs 1 through 177 of this Count XIV.

178. Section 725.274 of the Board Regulations, 35 Ill. Adm. Code 725.274, provides as follows:

At least weekly, the owner or operator must inspect areas where containers are stored. The owner or operator must look for leaking containers and for deterioration of containers caused by corrosion or other factors. See Section 725.171 for remedial action required if deterioration or leaks are detected.

179. Beginning prior to November 9, 2023, and on dates better known to Defendant JET, Defendant JET has failed to conduct weekly inspections of areas at the Facility where hazardous waste containers are stored, including, but not limited to, the Cadmium Plant and Test Lab, and have not looked for deteriorating or leaking containers.

180. By failing to inspect areas at the Site where hazardous waste containers are stored, Defendant violated Section 725.274 of the Board Regulations, 35 Ill. Adm. Code 725.274, and thereby violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022).

181. Violations of the pertinent environmental statutes will continue unless and until this Court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter an order in favor of the Plaintiff and against Defendant, JET ENTERPRISES & HOLDING CO., LLC, an Illinois limited liability company, on Count XIV:

A. Finding that Defendant has violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022), and Section 725.274 of the Board Regulations, 35 Ill. Adm. Code 725.274;

B. Enjoining Defendant from further violation of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022), and Section 725.274 of the Board Regulations, 35 Ill. Adm. Code 725.274;

C. Ordering the Defendant to immediately undertake the necessary corrective action that will result in a final and permanent abatement of violations of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022), and Section 725.274 of the Board Regulations, 35 Ill. Adm. Code 725.274, including but not limited to properly containerizing and storing all chemical wastes in the Test Lab and Cadmium Plant;

D. Assessing against Defendant a civil penalty of Twenty-Five Thousand Dollars (\$25,000.00) for each day of each violation of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022), and Section 725.274 of the Board Regulations, 35 Ill. Adm. Code 725.274, pursuant to Section 42(b)(3) of the Act, 415 ILCS 5/42(b)(3) (2022);

E. Awarding to Plaintiff its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022); and

F. Ordering such other and further relief as the Court deems appropriate and just.

COUNT XV
LAND DISPOSAL OF PROHIBITED HAZARDOUS WASTES

1-177. Plaintiff re-alleges and reincorporates by reference herein paragraphs 1 of Count II, paragraphs 2 through 112 of Count I, paragraphs 114, 115, 118, 119, 122 and 123 of Count II, and paragraphs 119 through 177 of Count VIII as paragraphs 1 through 177 of this Count XV.

178. Section 728.134 of the Board Regulations, 35 Ill. Adm. Code 728.134, provides, in pertinent part, as follows:

- a) The following wastes are prohibited from land disposal: the wastes specified in 35 Ill. Adm. Code 721 as USEPA hazardous waste numbers D004 through D011 that are newly identified (i.e., wastes, soil, or debris identified as hazardous by the Toxic Characteristic Leaching Procedure but not the Extraction Procedure), and waste, soil, or debris from mineral processing operations that is identified as hazardous by the specifications at 35 Ill. Adm. Code 721.

179. Section 728.102 of the Board Regulations, 35 Ill. Adm. Code 728.102, provides the following definition:

“Land disposal” means placement in or on the land, except in a corrective action management unit or staging pile, and “land disposal” includes, but is not limited to, placement in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, underground mine or cave, or placement in a concrete vault or bunker intended for disposal purposes.

180. Section 720.110 of the Board Regulations, 35 Ill. Adm. Code 720.110, provides the following definitions:

“Disposal” means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

* * *

“Hazardous waste” means a hazardous waste as defined in 35 Ill. Adm. Code 721.103.

181. On November 9, 2023, and on dates better known to Defendant JET, waste was disposed of on land in the Vacant North Area.

182. Because Pile 2 of the Vacant North Area contained a hazardous waste identified as D0006 (hazardous for cadmium), it is prohibited from land disposal under Section 728.134(a) of the Board Regulations, 35 Ill. Adm. Code 728.134(a).

183. On November 9, 2023, and on dates better known to Defendant JET, Red Sludge was disposed of on land in the Vacant North Area.

184. Because the Red Sludge is a hazardous waste identified as D0006 (hazardous for cadmium) and D0008 (hazardous for lead), it is prohibited from land disposal under Section 728.134(a) of the Board Regulations, 35 Ill. Adm. Code 728.134(a).

185. On November 9, 2023, and on dates better known to Defendant JET, Hazardous Sand was disposed of at the Sand.

186. Because the Hazardous Sand is a hazardous waste identified as D0006 (hazardous for cadmium) and D0008 (hazardous for lead), it is prohibited from land disposal under Section 728.134(a) of the Board Regulations, 35 Ill. Adm. Code 728.134(a).

187. On November 9, 2023, and on dates better known to Defendant JET, wastes from the demolition of a portion of the concrete berm surrounding the Plant Effluent Area (“PEA Wastes”) were disposed of on land.

188. Because the PEA Wastes are hazardous wastes identified as D0006 (hazardous for cadmium) and D0008 (hazardous for lead), they are prohibited from land disposal under Section 728.134(a) of the Board Regulations, 35 Ill. Adm. Code 728.134(a).

189. By causing or allowing the land disposal of hazardous wastes at the Site that are prohibited from land disposal, including but not limited to the Red Sludge, Hazardous Sand, and

PEA Wastes, Defendant JET violated Section 728.134(a) of the Board Regulations, 35 Ill. Adm. Code 728.134(a), and thereby violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022).

190. Violations of the pertinent environmental statutes will continue unless and until this Court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter an order in favor of Plaintiff and against Defendant, JET ENTERPRISES & HOLDING CO., LLC on Count XV:

A. Finding that Defendant has violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022), and Section 728.134(a) of the Board Regulations, 35 Ill. Adm. Code 728.134(a);

B. Enjoining Defendant from further violation of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022), and Section 728.134(a) of the Board Regulations, 35 Ill. Adm. Code 728.134(a);

C. Ordering Defendant to immediately undertake the necessary corrective action that will result in a final and permanent abatement of violations of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022), and Section 728.134(a) of the Board Regulations, 35 Ill. Adm. Code 728.134(a), including, but not limited to, ceasing and desisting from disposal of any hazardous or potentially hazardous waste on land at the Site; characterizing all wastes currently disposed on land at the Site through sampling and laboratory analysis by contractors approved by Illinois EPA, and submitting records of such characterizations to Illinois EPA; and arranging for all hazardous wastes to be disposed of a facility permitted to accept them, and submitting records of such removal and disposal to Illinois EPA;

D. Assessing against Defendant a civil penalty of Twenty-Five Thousand Dollars (\$25,000.00) for each day of each violation of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2)

(2022), and Section 728.134(a) of the Board Regulations, 35 Ill. Adm. Code 728.134(a), pursuant to Section 42(b)(3) of the Act, 415 ILCS 5/42(b)(3) (2022);

E. Awarding to Plaintiff its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022); and

F. Ordering such other and further relief as the Court deems appropriate and just.

COUNT XVI
FAILURE TO PROTECT HAZARDOUS WASTE PILES FROM DISPERSAL BY WIND

1-177. Plaintiff re-alleges and reincorporates by reference herein paragraph 1 of Count II, paragraphs 2 through 112 of Count I, paragraphs 114, 115, 118, 119, 122, and 123 of Count II, and paragraphs 119 through 177 of Count VIII as paragraphs 1 through 177 of this Count XVI.

178. Section 725.351 of the Board Regulations, 35 Ill. Adm. Code 725.351, provides as follows:

The owner or operator of a pile containing hazardous waste that could be subject to dispersal by wind must cover or otherwise manage the pile so that wind dispersal is controlled.

179. Section 720.110 of the Board Regulations, 35 Ill. Adm. Code 720.110, provides the following definition:

“Facility” means the following:

All contiguous land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste or for managing hazardous secondary materials prior to reclamation. A facility may consist of several treatment, storage, or disposal operational units (e.g., one or more landfills, surface impoundments, or combinations of them). . . .

“Owner” means the person that owns a facility or part of a facility.

“Pile” means any non-containerized accumulation of solid, non-flowing hazardous waste that is used for treatment or storage, and that is not a containment building.

180. The Site is a contiguous area of land and improvements on the land used for storing and disposing of hazardous wastes, and the Site was and is therefore a “facility” as that term is defined by Section 720.110 of the Board Regulations, 35 Ill. Adm. Code 720.110.

181. Defendant JET owns the Facility and therefore is the Facility’s “owner” as that term is defined by Section 720.110 of the Board Regulations, 35 Ill. Adm. Code 720.110.

182. Defendant JET has caused or allowed solid hazardous wastes, including, but not limited to, the Hazardous Sand, CSB Sludges and Red Sludge to be stored on the Site in non-containerized accumulations, and therefore in “piles” as that term is defined in Section 720.110 of the Board Regulations, 35 Ill. Adm. Code 720.110.

183. On November 9, 2023, and on other dates better known to Defendant JET, Defendant JET caused or allowed hazardous wastes, including but not limited to the Hazardous Sand, CSB Sludges, and Red Sludge, to be stored at the Facility in uncovered piles subject to dispersal by wind.

184. By causing or allowing hazardous wastes to be stored at the Facility in uncovered piles subject to dispersal by wind, Defendant JET violated Section 725.351 of the Board Regulations, 35 Ill. Adm. Code 725.351, and thereby violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022).

185. Violations of the pertinent environmental statutes will continue unless and until this Court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter an order in favor of Plaintiff and against Defendant, JET ENTERPRISES & HOLDING CO., LLC on Count XVI:

A. Finding that Defendant has violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022), and Section 725.351 of the Board Regulations, 35 Ill. Adm. Code 725.351;

B. Enjoining Defendant from further violation of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022), and Section 725.351 of the Board Regulations, 35 Ill. Adm. Code 725.351;

C. Ordering Defendants to immediately undertake the necessary corrective action that will result in a final and permanent abatement of violations of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022), and Section 725.351 of the Board Regulations, 35 Ill. Adm. Code 725.351, including but not limited to ceasing and desisting from all activity on the Hazardous Sand, immediately covering the Hazardous Sand with a secure cover, disposing of all hazardous wastes present at the Facility at a facility permitted to accept them, and submitting records of such removal and disposal to Illinois EPA;

D. Assessing against Defendant a civil penalty of Twenty-Five Thousand Dollars (\$25,000.00) for each day of each violation of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022), and Section 725.351 of the Board Regulations, 35 Ill. Adm. Code 725.351, pursuant to Section 42(b)(3) of the Act, 415 ILCS 5/42(b)(3) (2022);

E. Awarding to Plaintiff its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022); and

F. Ordering such other and further relief as the Court deems appropriate and just.

COUNT XVII
AIR POLLUTION

1. This Count is brought on behalf of the People of the State of Illinois, *ex rel.* KWAME RAOUL, Attorney General of the State of Illinois, against Defendants, JET ENTERPRISES & HOLDING CO., LLC, an Illinois limited liability company and JORDAN WOMACK, an individual, on his own motion, pursuant to Sections 42(d) and (e) of the Illinois Environmental Protection Act (“the Act”), 415 ILCS 5/42(d) and (e) (2022).

2-177. Plaintiff re-alleges and reincorporates by reference herein, paragraphs 2 through 112 of Count I, paragraphs 114, 115, 118, 119, 122, and 123 of Count II, and paragraphs 119 through 177 of Count VIII as paragraphs 1 through 177 of this Count XVII.

178. 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.

179. Section 3.315 of the Act, 415 ILCS 5/3.315 (2022), provides the following definition:

“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.

180. Defendant JET 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).

181. Defendant JORDAN WOMACK is an individual and therefore a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2022).

182. Section 3.165 of the Act, 415 ILCS 5/3.165 (2022), provides the following definition:

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

183. The Hazardous Sand present on the Site is solid matter and therefore a “contaminant” as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2022).

184. Section 3.115 of the Act, 415 ILCS 5/3.115 (2022), provides the following definition:

"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.

185. The Hazardous Sand is hazardous waste that contains toxic metals including cadmium and arsenic, the inhaling of which is injurious to human, plant, and animal life and health, and the presence of the Hazardous Sand in the atmosphere is therefore “air pollution” as that term is defined in Section 3.115 of the Act, 415 ILCS 5/3.115 (2022).

186. Defendant JORDAN WOMACK disturbed the Hazardous Sand and operated heavy equipment on the Hazardous Sand, which caused, threatened or allowed the Hazardous Sand to become airborne.

187. Defendant JET, which owns and operates the Site, caused or allowed the Hazardous Sand to be disturbed and caused or allowed heavy equipment to be operated on the Hazardous Sand, which caused, threatened, or allowed the Hazardous Sand to become airborne.

188. By causing, threatening or allowing the Hazardous Sand to become airborne, Defendants caused, threatened, or allowed the discharge or emission of a contaminant into the

environment so as to cause or tend to cause air pollution in Illinois, and therefore violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2022).

189. Violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter an order in favor of Plaintiff and against Defendants, JET ENTERPRISES & HOLDING CO., LLC, and JORDAN WOMACK, on COUNT XVII:

- A. Finding that Defendants violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2022);
- B. Enjoining Defendants from further violation of Section 9(a) of the Act, 415 ILCS 5/9(a) (2022);
- C. Ordering Defendants to immediately undertake all necessary corrective action that will result in a final and permanent abatement of violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2022);
- D. Assessing against each Defendant a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Section 9(a) of the Act, 415 ILCS 5/9(a) (2022), and an additional Ten Thousand Dollars (\$10,000.00) for each day each violation continues, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2022);
- E. Awarding to Plaintiff its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022); and

F. Granting such other and further relief as the Court deems appropriate and just.

Respectfully Submitted,

PEOPLE OF THE STATE OF ILLINOIS,
ex rel. KWAME RAOUL, Attorney General
State of Illinois,

MATTHEW J. DUNN, Chief
Environmental Enforcement/
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By: /s/ Andrew Armstrong
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