

STATE OF WISCONSIN

CIRCUIT COURT
BRANCH _____

PRICE COUNTY

COPY

STATE OF WISCONSIN
17 West Main Street
Post Office Box 7857
Madison, Wisconsin 53707-7857,

Plaintiff,

v.

JOHNSON TIMBER CORPORATION
870 North First Avenue
Park Falls, Wisconsin 54552,
a Wisconsin corporation,

Defendant.

Case No. 14-CX- 1
Complex Forfeiture: 30109

THE AMOUNT CLAIMED IS
GREATER THAN THE
AMOUNT CLAIMED UNDER
WIS. STAT. § 799.01(1)(d).



SUMMONS

THE STATE OF WISCONSIN,

To each person named above as a defendant:

You are hereby notified that the plaintiff named above has filed a lawsuit or other legal action against you. The complaint, which is attached states the nature and basis of the legal action.

Within 20 days of receiving this summons, you must respond with a written answer, as that term is used in chapter 802 of the Wisconsin Statutes, to the complaint. The Court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the Court, whose address is Price

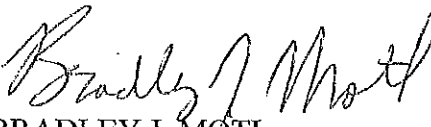
County Circuit Court, 126 Cherry Street, Phillips, WI 54555, and to Bradley J. Motl, plaintiff's attorney, whose address is Wisconsin Department of Justice, Environmental Protection Unit, 17 West Main Street, Post Office Box 7857, Madison, WI 53707-7857.

You may have an attorney help or represent you.

If you do not provide a proper answer within 20 days, the Court may grant judgment against you for the award of money or other legal action requested in the complaint, and you may lose your right to object to anything that is or may be incorrect in the complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated this 27th day of January, 2014.

J.B. VAN HOLLEN
Attorney General


BRADLEY J. MOTL
Assistant Attorney General
State Bar #1074743

Attorneys for Plaintiff State of Wisconsin

Wisconsin Department of Justice
Post Office Box 7857
Madison, Wisconsin 53707-7857
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motlbj@doj.state.wi.us

STATE OF WISCONSIN

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COMPLAINT

The State of Wisconsin by its attorneys, Attorney General J.B. Van Hollen and Assistant Attorney General Bradley J. Motl, brings this complaint against the above-named defendant at the request of the Wisconsin Department of Natural Resources (WDNR) pursuant to Wis. Stat. ch. 285, which protects the public from air pollution. The WDNR administers regulations and issues permits authorized by these statutes.

1. Plaintiff State of Wisconsin is a sovereign state of the United States of America with its principal offices at the State Capitol in Madison, Dane County, Wisconsin.

2. Defendant Johnson Timber Corporation (Johnson Timber) is a domestic business corporation with its principal office at 9676 North Kruger Road, Hayward, Wisconsin 54843. Its registered agent is William B. Johnson at the same address.

3. Johnson Timber owns and operates a wood drying system located at 870 North First Avenue, Park Falls, Price County, Wisconsin 54552.

4. At all times relevant to this complaint, Johnson Timber owned and operated the wood drying system located at 870 North First Avenue, Park Falls, Price County, Wisconsin, 54552.

5. The wood drying system is a stationary source as defined in Wis. Stat. § 285.01(41) and an air contaminant source as defined in Wis. Stat. § 285.01(2).

6. At all times relevant to this complaint, the wood drying system consisted of a wood burner (Burner B10), rotary dryer (Process P10), and a cyclone (Control C10).

7. Air contaminants from the wood drying system are emitted through Stack S10.

8. Unless exempt, a stationary source of air contaminant emissions may not be constructed without a construction permit from WDNR pursuant to Wis. Stat. § 285.60(1)(a).

9. WDNR issued Flambeau River Papers, LLC Air Pollution Control Permit No.: 09-MDW-013 on July 15, 2009, referred to as the 2009 Permit in this Complaint. The effective date of the 2009 Permit was August 1, 2009.

10. The 2009 Permit was issued by WDNR under the research and testing exemption (Wis. Admin. Code § NR 406.04(1)(i)) from the construction permit requirements.

11. The 2009 Permit was issued to Flambeau River Papers, LLC because it applied for the research and testing exemption even though Johnson Timber intended to own and operate the wood drying system. Johnson Timber's wood drying system provides Flambeau River Papers, LLC with dried wood product.

12. Johnson Timber installed and initially operated the wood drying system under the 2009 Permit.

13. The 2009 Permit expired on July 31, 2010.

14. WDNR issued Johnson Timber Air Pollution Control Construction Permit No.: 10-MDW-045 on December 6, 2010, referred to as the 2010 Permit in this Complaint.

15. Pursuant to Wis. Stat. § 285.60(7), and at all times relevant to the violations contained in this Complaint, Johnson Timber was required to comply with all terms and conditions of either its 2009 Permit or 2010 Permit.

16. In accordance with Wis. Stat. § 285.87(1), any person who violates any permit issued under Wis. Stat. ch. 285 or administrative rule promulgated under Wis. Stat. ch. 285 shall forfeit not less than \$10 or more than \$25,000 for each daily violation.

17. Johnson Timber has been subject to the following enforcement actions by WDNR: Notice of Violation dated August 27, 2010; Notice of Violation dated September 7, 2011; and Enforcement Conference on October 12, 2011.

VIOLATION ONE

18. The 2009 Permit does not contain numeric particulate matter emissions limits.

19. Wisconsin Admin. Code § NR 415.05(2) states that "[n]o person may cause, allow or permit the emission of particulate matter to the ambient air from a direct or portable source involving a process in excess of the following limitations: . . . The allowable emissions of particulate matter calculated by the use of the equation $E = 3.59 P^{0.62}$ for process weight rates up to 60,000 pounds per hour . . . where E is the allowable emissions in pounds per hour and P is the process weight rate in tons per hour."

20. Wisconsin Admin. Code § NR 415.01(2) states that Wis. Admin. Code ch. NR 415 was adopted under Wis. Stat. §§ 285.11, 285.13, and 285.17.

21. The process weight rate for Johnson Timber's wood dryer system is the sum of the maximum green wood chip input rate and the maximum wood combustion rate.

22. Johnson Timber's maximum green wood chip input rate is 14.25 tons per hour and its maximum wood combustion rate is 1.87 tons per hour.

23. The process weight rate for the wood dryer system is 16.12 tons per hour, or 32,240 pounds per hour.

24. Pursuant to Wis. Admin. Code § NR 415.05(2), Johnson Timber's allowable emission rate of particulate matter from the wood drying system stack S10 is 20.12 pounds per hour.

25. On June 22 and 25, 2010, Johnson Timber conducted an emissions stack test for the wood dryer system stack S10 (June 2010 stack test).

26. The June 2010 stack test consisted of two emissions test runs on June 22, 2010 and one emissions test run on June 25, 2010.

27. The average of the three June 2010 stack test emission test runs indicated that Johnson Timber emitted 77.05 pounds of particulate matter per hour.

28. Johnson Timber violated Wis. Admin. Code § NR 415.05(2) when it exceeded its allowable emission rate of 20.12 pounds of particulate matter per hour during the June 2010 stack test.

VIOLATION TWO

29. Condition I.E.(1).(a).1.a). of Johnson Timber's 2010 Permit limits particulate matter emissions from the dryer system stack S10 to 18.20 pounds per hour.

30. Between June 21 and 24, 2011, Johnson Timber conducted an emissions stack test for the dryer system stack S10 (June 2011 stack test).

31. Emissions test run 1 of the June 2011 stack test was declared invalid on the test date due to two process upsets and inadequate sample time.

32. Emissions test run 2 of the June 2011 stack test was considered a valid test run by WDNR but it was not included in the test average at the request of Johnson Timber because the dryer system was operating 30% above its rated capacity.

33. The average of emissions test runs 3 through 5 of the June 2011 stack test indicated that Johnson Timber emitted 23.60 pounds of particulate matter per hour.

34. Johnson Timber violated condition I.E.(1).(a).1.a). of its 2010 Permit and Wis. Stat. § 285.60(7) when it exceeded its 18.20 pounds of particulate matter per hour permit limitation during the June 2011 stack test.

VIOLATION THREE

35. Condition I.E.(1).(a).1.b). of Johnson Timber's 2010 Permit limits particulate matter emissions from the dryer system stack S10 to 2.35 pounds per oven dried ton of dried wood fiber.

36. Between June 21 and 24, 2011, Johnson Timber conducted an emissions stack test for the dryer system stack S10 (June 2011 stack test).

37. Emissions test run 1 of the June 2011 stack test was declared invalid on the test date due to two process upsets and inadequate sample time.

38. Emissions test run 2 of the June 2011 stack test was considered a valid test run by WDNR but it was not included in the test average at the request of Johnson Timber because the dryer system was operating 30% above its rated capacity.

39. The average of emissions test runs 3 through 5 of the June 2011 stack test indicated that Johnson Timber emitted 2.70 pounds of particulate matter per oven dried ton of dried wood fiber.

40. Johnson Timber violated condition I.E.(1).(a).1).b). of its 2010 Permit and Wis. Stat. § 285.60(7) when it exceeded its 2.35 pounds of particulate matter per oven dried ton of dried wood fiber permit limitation during the June 2011 stack test.

PENALTY PROVISIONS

41. Wisconsin Stat. § 299.95 authorizes the attorney general to enforce Wis. Stat. ch. 285 and all rules promulgated and permits issued under that chapter, subject to exceptions not applicable to this case. Under Wis. Stat. § 299.95, the circuit court for Dane County or the county where the violation occurred has jurisdiction to enforce Wis. Stat. ch. 285 and all rules promulgated and permits issued under that chapter "by injunctive and other relief appropriate for enforcement."

42. Wisconsin Stat. § 285.87(1) states that any person who violates Wis. Stat. ch. 285 or any rule promulgated under this chapter or any permit issued under this chapter shall forfeit not less than \$10 nor more than \$25,000 for each violation. Each day of continued violation is a separate offense.

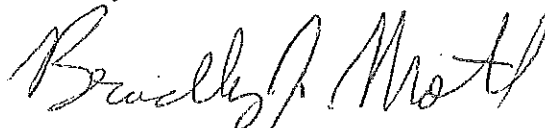
RELIEF REQUESTED

WHEREFORE, plaintiff asks the Court to enter judgment as follows:

1. Forfeitures as provided in Wis. Stat. § 285.87(1);
2. The 26% penalty surcharge pursuant to Wis. Stat. § 814.75(18), the 20% environmental surcharge pursuant to Wis. Stat. § 814.75(12), the 1% jail surcharge pursuant to Wis. Stat. § 814.75(14), \$25.00 in court costs pursuant to Wis. Stat. § 814.63(1), the \$13.00 crime laboratories and drug law enforcement surcharge pursuant to Wis. Stat. § 814.75(3), the \$68.00 court support services surcharge under Wis. Stat. § 814.75(2), and the \$21.50 justice information system surcharge under Wis. Stat. § 814.75(15); and
3. Any other relief the Court deems just and appropriate.

Dated this 27th day of January, 2014.

J.B. VAN HOLLEN
Attorney General



BRADLEY J. MOTL
Assistant Attorney General
State Bar #1074743

Attorneys for Plaintiff State of Wisconsin

Wisconsin Department of Justice
Post Office Box 7857
Madison, Wisconsin 53707-7857
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motlbj@doj.state.wi.us

COPY

STATE OF WISCONSIN

CIRCUIT COURT

PRICE COUNTY

STATE OF WISCONSIN,

Plaintiff,

v.

JOHNSON TIMBER CORPORATION,

Defendant.

Case No. 13-CX-
Complex Forfeiture: 30109

FILED

JAN 29 2014

CHRIS CRESS
CLERK OF CIRCUIT COURT
PRICE COUNTY, WI

STIPULATION AND ORDER FOR JUDGMENT

Plaintiff State of Wisconsin ("State") brought this civil action against defendant Johnson Timber Corporation, regarding its wood drying system located at 870 North First Avenue, Park Falls, Price County, Wisconsin. The Complaint alleges violations of the defendant's Wisconsin air pollution control permit and the State's air pollution control laws. The parties now wish to settle this matter by agreement and avoid further litigation and, therefore, enter into this stipulation.

IT IS STIPULATED AND AGREED by the State of Wisconsin and Johnson Timber Corporation that this case shall be settled on the merits, with prejudice, on the following terms and conditions:

1. The parties to this Stipulation are the plaintiff State of Wisconsin and the defendant Johnson Timber Corporation. The State of Wisconsin has been duly authorized or otherwise approved by the United States Environmental Protection Agency to implement and enforce the provisions of the Clear Air Act, 42 U.S.C. 7401, *et seq.*, relevant to this Stipulation.

2. The Circuit Court for Price County, Wisconsin (the "Court") has jurisdiction over the parties and the subject matter of this action.

3. This Stipulation and Order for Judgment as approved by the Court shall apply to and be binding on the parties and on the successors and assignees of the parties. No change in ownership or corporate or partnership status shall in any way alter the responsibilities of the defendant Johnson Timber Corporation under this Stipulation and Order for Judgment.

4. Judgment shall be entered in favor of the plaintiff State of Wisconsin and against the defendant Johnson Timber Corporation in the amount of \$17,500.00. This sum is comprised of forfeitures, statutory surcharges, and costs as follows: forfeitures of \$11,818.03 under Wis. Stat. § 285.87(1), a 26% penalty surcharge of \$3,072.69 under Wis. Stat. § 814.75(18), a 20% environmental surcharge of \$2,363.60 under Wis. Stat. § 814.75(12), \$25.00 in court costs under Wis. Stat. § 814.63(1), a \$13.00 crime laboratories and drug law enforcement surcharge under Wis. Stat. § 814.75(3), a \$68.00 court support services surcharge under Wis. Stat. § 814.75(2), a 1% jail surcharge of \$118.18 under Wis. Stat. § 814.75(14), and a \$21.50 justice information system surcharge under Wis. Stat. § 814.75(15).

5. The defendant Johnson Timber Corporation will pay \$17,500.00 by check payable to the Price County Circuit Court and delivered to the Clerk of Court, Price County Courthouse, 126 Cherry Street, Phillips, Wisconsin 54555, along with a cover letter to the Court identifying the case by name and number. A copy of the check and cover letter shall be simultaneously mailed as proof of payment to Assistant Attorney General Bradley J. Motl at the Wisconsin Department of Justice, Post Office Box 7857, Madison, Wisconsin 53707-7857. Payment shall be made on or before March 1, 2014.

6. Satisfaction of the Judgment based on this Stipulation and Order for Judgment shall release Johnson Timber Corporation and any and all of its subsidiaries, parent companies, predecessors, successors in interest, prior or subsequent purchasers or transferees, assignees, and all officers, directors, agents or employees of all said entities from all liability, civil or criminal, which relates to the violations described in the Complaint and the issues identified in any Letter of Noncompliance or Notice of Violation issued to Johnson Timber Corporation by Wisconsin Department of Natural Resources prior to the date of judgment.

7. The parties acknowledge that this Stipulation and Order for Judgment sets forth the entire understanding of the parties with respect to the subject matter hereto.

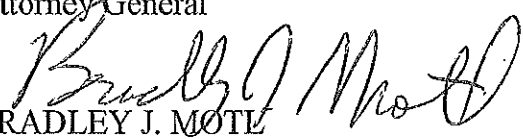
8. The defendant Johnson Timber Corporation waives the requirement for formal service of the authenticated summons and complaint.

9. The Order for Judgment accompanying this Stipulation will be a final and appealable order. The Order for Judgment and Judgment may be entered incorporating

the terms of this Stipulation without further notice, and the Judgment may be docketed,
pursuant to Wis. Stat. § 806.10(1).

Dated this 27th day of ~~December~~ ^{January} 2014 ~~2013~~.

J.B. VAN HOLLEN
Attorney General



BRADLEY J. MOTL
Assistant Attorney General
State Bar #1074743

Attorneys for plaintiff State of Wisconsin

Wisconsin Department of Justice
Post Office Box 7857
Madison, Wisconsin 53707-7857
(608) 267-0505
(608) 266-2250 (fax)
motlbj@doj.state.wi.us

Dated this 15th day of ~~December~~ ^{January} 2014.

DEWITT ROSS & STEVENS S.C.



TIMM P. SPEERSCHNEIDER

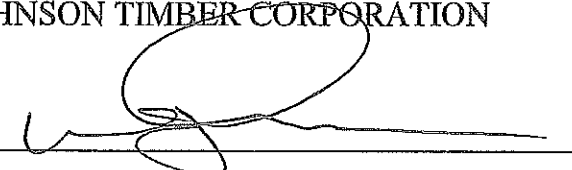
State Bar #1012525

Attorneys for defendant Johnson Timber
Corporation

Two East Mifflin Street, Suite 600
Madison, Wisconsin 53703-2865
(608) 255-8891
(608) 252-9243 (fax)
tps@dewittross.com

Dated this 10 day of ~~December~~ ^{January} 2014.

JOHNSON TIMBER CORPORATION

By: 

Printed Name: William E Johnson

Title: President

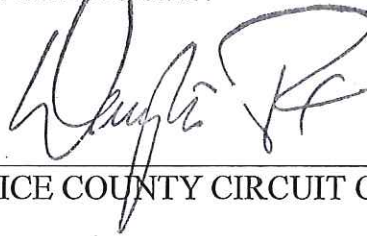
ORDER FOR JUDGMENT

The Court approves the terms of the foregoing settlement Stipulation in *State of Wisconsin v. Johnson Timber Corporation*, Price County Case No. 14-CX-1, pursuant to which the defendant will pay \$17,500.00 in forfeitures, surcharges, and costs. The Court therefore directs the clerk to enter and docket the Judgment accordingly.

This is a final order that disposes of the entire matter in litigation between the State of Wisconsin and Johnson Timber Corporation, and is intended by the Court to be an appealable order within the meaning of Wis. Stat. § 808.03(1).

Dated this 29 day of January 2014.

BY THE COURT:



PRICE COUNTY CIRCUIT COURT

COPY

STATE OF WISCONSIN

CIRCUIT COURT

PRICE COUNTY

STATE OF WISCONSIN

17 West Main Street

Post Office Box 7857

Madison, Wisconsin 53707-7857,

Plaintiff,

v.

Case No. 14-CX- 1

Complex Forfeiture: 30109

JOHNSON TIMBER CORPORATION

870 North First Avenue

Park Falls, Wisconsin 54552,

a Wisconsin corporation,

Defendant.

FILED

JAN 29 2014

CHRIS CRESS
CLERK OF CIRCUIT COURT
PRICE COUNTY, WI

JUDGMENT

Based on the Stipulation between the plaintiff State of Wisconsin and the defendant Johnson Timber Corporation and on the Court's Order, the terms of which are incorporated into this Judgment in their entirety, judgment is granted in favor of the plaintiff State of Wisconsin, and against the defendant Johnson Timber Corporation in the amount of \$17,500.00. This sum is comprised of forfeitures, statutory surcharges, and costs as follows: forfeitures of \$11,818.03 under Wis. Stat. § 285.87(1), a 26% penalty surcharge of \$3,072.69 under Wis. Stat. § 814.75(18), a 20% environmental surcharge of \$2,363.60 under Wis. Stat. § 814.75(12), \$25.00 in court costs under Wis. Stat. § 814.63(1), a \$13.00 crime laboratories and drug law enforcement surcharge under Wis. Stat. § 814.75(3), a \$68.00 court support services surcharge under Wis. Stat.

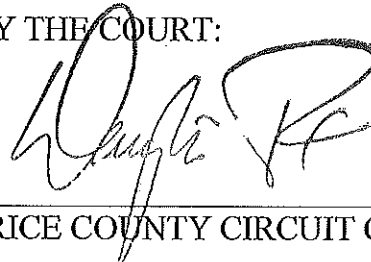
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The defendant Johnson Timber Corporation will pay \$17,500.00 by check payable to the Price County Circuit Court and delivered to the Clerk of Court, Price County Courthouse, 126 Cherry Street, Phillips, Wisconsin 54555, along with a cover letter to the Court identifying the case by name and number. A copy of the check and cover letter shall be simultaneously mailed as proof of payment to Assistant Attorney General Bradley J. Motl at the Wisconsin Department of Justice, Post Office Box 7857, Madison, Wisconsin 53707-7857. Payment shall be made on or before March 1, 2014.

This Judgment is final for purposes of appeal.

Dated this 29 day of January 2014.

BY THE COURT:

A handwritten signature in black ink, appearing to be "Duffie R", is written over a horizontal line.

PRICE COUNTY CIRCUIT COURT