

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
 by KWAME RAOUL, Attorney General)
 of the State of Illinois,)
)
 Complainant,)
)
 v.)
)
 TIM SCHISLER, d/b/a MAPLE CITY)
 CONSTRUCTION, an unincorporated entity,)
 and RCM TRANSPORT, INC., an Illinois)
 corporation,)
)
 Respondents.

PCB No.
(Enforcement-Land)

NOTICE OF FILING

To: See attached service list

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Pollution Control Board by electronic filing the following Notice of Filing, Complaint, Stipulation and Proposal for Settlement, Motion for Relief from Hearing Requirements and Certificate of Service, copies of which are attached and hereby served upon you.

PEOPLE OF THE STATE OF ILLINOIS
KWAME RAOUL, ATTORNEY GENERAL

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

BY: s/Brian Navarrete
Brian Navarrete
Environmental Bureau
Assistant Attorney General
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Dated: October 15, 2021

THIS FILING IS SUBMITTED ON RECYCLED PAPER

Service List

For the Respondent

Marcum A. Spears represents RCM
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Maple City Construction
Attn: Tim Schisler
416 West 5th Avenue
Monmouth, Illinois 61462

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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|--|---|-----------------------|
| PEOPLE OF THE STATE OF ILLINOIS, |) | |
| by KWAME RAOUL, Attorney General |) | |
| of the State of Illinois, |) | |
| |) | |
| Complainant, |) | |
| |) | |
| v. |) | PCB No. 2022 - |
| |) | |
| TIM SCHISLER |) | |
| d/b/a MAPLE CITY CONSTRUCTION, |) | |
| an unincorporated entity, and RCM |) | |
| TRANSPORT, INC., an Illinois corporation, |) | |
| |) | |
| Respondents. |) | |

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, on his own motion and at the request of the Illinois Environmental Protection Agency, complains of Respondents, TIM SCHISLER d/b/a MAPLE CITY CONSTRUCTION, an unincorporated entity, and RCM TRANSPORT, INC., an Illinois corporation, as follows:

COUNT I
OPEN DUMPING

1. This Count is brought on behalf of the People of the State of Illinois, by KWAME RAOUL, Attorney General of the State of Illinois, against Respondents, TIM SCHISLER d/b/a MAPLE CITY CONSTRUCTION, an unincorporated entity, and RCM TRANSPORT, INC., an Illinois corporation (“Respondents”), on his own motion and at the request of the Illinois Environmental Protection Agency (“Illinois EPA”).

2. Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2020), and is charged, *inter alia*, with the duty of enforcing the Act.

3. The Illinois Pollution Control Board (“Board”) is an independent board created by the Illinois General Assembly in Section 5 of the Act, 415 ILCS 5/5 (2020), and charged, *inter alia*, with the duty of promulgating standards and regulations under the Act.

4. At all times relevant to the Complaint, Respondent TIM SCHISLER was a resident of Illinois.

5. At all times relevant to the Complaint, Respondent TIM SCHISLER owned and operated a demolition and construction business under the name of Maple City Construction, an unincorporated entity.

6. At all times relevant to the Complaint, ROBERT MUNSON was a resident of Illinois. On June 4, 2021, ROBERT MUNSON passed away.

7. At all times relevant to this Complaint, ROBERT MUNSON owned the property located on the west side of 90th Street, approximately 0.5 miles north of 245th Avenue, Latitude 40.99393, Longitude -90.61141, Gerlaw, Warren County, Illinois (the “Site”).

8. At all times relevant to the Complaint, ROBERT MUNSON was the president of Respondent RCM TRANSPORT, INC.

9. At all times relevant to the Complaint, Respondent RCM TRANSPORT, INC. (“RCM”) was an Illinois corporation. As of the filing of this Complaint, RCM is not in good standing with the Illinois Secretary of State.

10. At all times relevant to the Complaint, Respondent RCM operated a waste hauling business.

11. On or before November 6, 2019, and at a date better known to Respondent TIM SCHISLER, Respondent TIM SCHISLER demolished a house, trailer, and garage on South Sunny Lane in Monmouth, Illinois (“Demolition Project”).

12. On or before November 6, 2019, and at a date better known to Respondents, Respondent TIM SCHISLER contracted with Respondent RCM for waste removal from the Demolition Project.

13. On or before November 6, 2019, and at a date better known to Respondent RCM, Respondent RCM transported waste from the Demolition Project, and deposited it at the Site.

14. On or before November 6, 2019, and at a date better known to Respondent RCM, Respondent RCM burned waste from the Demolition Project at the Site.

15. On or before November 6, 2019, and at a date better known to Respondent RCM, Respondent RCM buried waste from the Demolition Project at the Site.

16. Between November 14, 2019 and November 20, 2019, Respondent RCM transported waste, including Demolition Project waste, from the Site to the Knox County Landfill.

17. Section 21(a) of the Act, 415 ILCS 5/21(a) (2020), provides as follows:

No person shall:

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

18. Section 3.315 of the Act, 415 ILCS 5/3.315 (2020), provides as follows:

“Person” is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

19. Respondent TIM SCHISLER, an individual, is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2020).

20. Respondent RCM, an Illinois corporation, is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2020).

21. Section 3.535 of the Act, 415 ILCS 5/3.535 (2020), provides, in pertinent part, as follows:

“Waste” means any garbage . . . other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities. . . .

22. Section 3.385 of the Act, 415 ILCS 5/3.385 (2020), provides as follows:

“Refuse” means waste.

23. The Demolition Project waste is “discarded material,” and therefore “waste” as that term is defined in Section 3.535 of the Act, 415 ILCS 5/3.535 (2020), and therefore also “refuse” as that term is defined in Section 3.385 of the Act, 415 ILCS 5/3.385 (2020).

24. Section 3.305 of the Act, 415 ILCS 5/3.305 (2020), provides as follows:

“Open dumping” means the consolidation of refuse from one or more sources at a disposal site that does not fulfill the requirements of a sanitary landfill.

25. Section 3.460 of the Act, 415 ILCS 5/3.460 (2020), provides as follows:

“Site” means any location, place, tract of land, and facilities, including but not limited to buildings, and improvements used for purposes subject to regulation or control by this Act or regulations thereunder.

26. The Site is a “site” as that term is defined in Section 3.460 of the Act, 415 ILCS 5/3.460 (2020).

27. Section 3.185 of the Act, 415 ILCS 5/3.185 (2020), 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.

28. Waste was discharged, deposited, dumped, spilled, leaked, and/or placed on the land at the Site in such a manner that waste, or constituents thereof, could enter the environment, be emitted into the air, or be discharged into waters or groundwater. Therefore, “disposal” occurred on the Site, as that term is defined in Section 3.185 of the Act, 415 ILCS 5/3.185 (2020), and the Site is a “disposal site” as that term is used within Section 3.305 of the Act, 415 ILCS 5/3.305 (2020).

29. Section 3.445 of the Act, 415 ILCS 5/3.445 (2020), provides, in pertinent part, as follows:

“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, P.L. 94-580 [42 U.S.C.A. § 6901 *et seq.*] 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.

30. Section 3.105 of the Act, 415 ILCS 5/3.105 (2020), provides as follows:

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

31. Respondents have never applied for or been granted a permit from Illinois EPA for the storage or disposal of wastes on the Site.

32. At all times relevant to this Complaint, the Site was not permitted by Illinois EPA for the disposal of wastes, and therefore is not a “sanitary landfill” as that term is defined in Section 3.445 of the Act, 415 ILCS 5/3.445 (2020).

33. Before November 20, 2019, and on dates better known to Respondents, Respondents consolidated refuse at a disposal site not meeting the requirements of a sanitary landfill, and therefore caused or allowed open dumping of waste at the Site.

34. By causing or allowing the open dumping of waste at the Site, Respondents violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2020).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, TIM SCHISLER d/b/a MAPLE CITY CONSTRUCTION, an unincorporated entity and RCM TRANSPORT, INC., an Illinois corporation, on Count I:

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

B. Finding that Respondents violated the Act and Board regulations as alleged herein;

C. Ordering Respondents to cease and desist from any further violations of the Act and Board regulations;

D. Assessing against each Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and Board regulations, and an additional 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) (2020);

E. Ordering Respondents to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2020), including any attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

F. Granting such other relief as the Board may deem appropriate.

COUNT II
OPEN DUMPING RESULTING IN LITTER

1-33. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 33 of Count I as paragraphs 1 through 33 of this Count II.

34. Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2020), 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;

35. Section 3(a) of the Litter Control Act, 415 ILCS 105/3(a) (2020), contains the following definition:

“Litter” means any discarded, used or unconsumed substance or waste. “Litter” may include, but is not limited to, any garbage, trash, refuse, debris, rubbish, grass clippings or other lawn or garden waste, newspaper, magazines, glass, metal, plastic or paper containers or other packaging construction material, abandoned vehicle (as defined in the Illinois Vehicle Code), motor vehicle parts, furniture, oil, carcass of a dead animal, any nauseous or offensive matter of any kind, any object likely to injure any person or create a traffic hazard, potentially infectious medical waste as defined in Section 3.360 of the Environmental Protection Act, or anything else of an unsightly or unsanitary nature, which has been discarded, abandoned or otherwise disposed of improperly.

36. The accumulated refuse at the Site constituted litter.

37. Before November 20, 2019, and on dates better known to Respondents, Respondents caused or allowed the open dumping of waste at the Site in a manner that resulted in litter, and thereby violated Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2020).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully

requests that the Board enter an order against Respondents, TIM SCHISLER d/b/a MAPLE CITY CONSTRUCTION, an unincorporated entity and RCM TRANSPORT, INC., an Illinois corporation, on Count II:

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

B. Finding that Respondents violated the Act and Board regulations as alleged herein;

C. Ordering Respondents to cease and desist from any further violations of the Act and Board regulations;

D. Assessing against each Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and Board regulations, and an additional 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) (2020);

E. Ordering Respondents to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2020), including any attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

F. Granting such other relief as the Board may deem appropriate.

COUNT III
OPEN DUMPING OF GENERAL CONSTRUCTION
OR DEMOLITION DEBRIS

1-33. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 33 of Count I as paragraphs 1 through 33 of this Count III.

34. Section 21(p)(7)(i) of the Act, 415 ILCS 5/21(p)(7)(i) (2020), provides, in pertinent part, 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;

35. Section 3.160(a) of the Act, 415 ILCS 5/3.160(a) (2020), provides, in pertinent part, as follows:

- (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; . . . glass; . . . and corrugated cardboard, piping or metals incidental to any of those materials. . . .

36. The waste from the Demolition Project located at the Site constituted “general construction or demolition debris” as that term is defined in Section 3.160(a) of the Act, 415 ILCS 5/3.160(a) (2020).

37. On or before November 20, 2019, and on dates better known to Respondents, Respondents caused or allowed the open dumping of waste at the Site in a manner that resulted in the deposition of general construction or demolition debris, and thereby violated Section 21(p)(7)(i) of the Act, 415 ILCS 5/21(p)(7)(i) (2020).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, TIM SCHISLER d/b/a MAPLE CITY

CONSTRUCTION, an unincorporated entity, and RCM TRANSPORT, INC., an Illinois corporation, on Count III:

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

B. Finding that Respondents violated the Act and Board regulations as alleged herein;

C. Ordering Respondents to cease and desist from any further violations of the Act and Board regulations;

D. Assessing against each Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and Board regulations, and an additional 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) (2020);

E. Ordering Respondents to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2020), including any attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

F. Granting such other relief as the Board may deem appropriate.

COUNT IV
CONDUCTING A WASTE DISPOSAL OPERATION WITHOUT A PERMIT

1-33. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 33 of Count I as paragraphs 1 through 33 of this Count IV.

34. Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2020), provides, in pertinent part, as follows:

No person shall:

* * *

(d) Conduct any waste-storage, waste-treatment, or waste-disposal operation:

(1) without a permit granted by the Agency or in violation of any conditions imposed by such permit, .

..

35. On or before November 20, 2019, and on dates better known to the Respondent RCM, Respondent RCM conducted a waste-disposal operation at the Site without a permit granted by Illinois EPA.

36. By conducting a waste-disposal operation at the Site without a permit granted by Illinois EPA, Respondent RCM violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2020).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, RCM TRANSPORT, INC., an Illinois corporation, on Count IV:

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

B. Finding that Respondent violated the Act and Board regulations as alleged herein;

C. Ordering Respondent to cease and desist from any further violations of the Act and Board regulations;

D. Assessing against each Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and Board regulations, and an additional 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) (2020);

E. Ordering Respondent to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2020), including any attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

F. Granting such other relief as the Board may deem appropriate.

COUNT V
CONDUCTING A WASTE DISPOSAL OPERATION WITHOUT
SUBMITTING A PERMIT APPLICATION TO ILLINOIS EPA

1-33. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 33 of Count I as paragraphs 1 through 33 of this Count V.

34. Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2020), provides, in pertinent part, as follows:

No person shall:

* * *

(d) Conduct any waste-storage, waste-treatment, or waste-disposal operation:

* * *

(2) in violation of any regulations or standards adopted by the Board under this Act; . . .

35. Section 812.101(a) of the Illinois Pollution Control Board's ("Board") regulations provides, in pertinent part, as follows:

a) All persons, except those specifically exempted by Section 21(d) of the Environmental Protection Act (Act) (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 1021(d)) shall submit to the Agency an application for a permit to develop and operate a landfill. . . .

36. Section 810.103 of the Board's regulations, 35 Ill. Adm. Code 810.103, provides, in pertinent part, as follows:

“Disposal” means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water or into any well such that solid waste or any constituent of the solid waste may enter the environment by being emitted into the air or discharged into any waters, including groundwater. [415 ILCS 5/3.185] If the solid waste is accumulated and not confined or contained to prevent its entry into the environment, or there is no certain plan for its disposal elsewhere, such accumulation will constitute disposal.

“Landfill” means a unit or part of a facility in or on which waste is placed and accumulated over time for disposal, . . . For the purposes of this Part and 35 Ill. Adm. Code 811 through 815, landfills include waste piles, as defined in this Section.

37. The Site where waste has been placed and accumulated over time for disposal is “landfill,” as that term is defined in Section 810.013 of the Board’s regulations, 35 Ill. Adm. Code 810.103.

38. On or before November 20, 2019, and on dates better known to Respondent RCM, Respondent RCM operated the Site and/or portions thereof as a landfill without applying for a permit from Illinois EPA to develop or operate a landfill.

39. By operating a landfill without applying for a permit from Illinois EPA to develop or operate a landfill, Respondent RCM violated Section 812.101(a) of the Board’s regulations, 35 Ill. Adm. Code 812.101(a).

40. On or before November 20, 2019, and on dates better known to Respondent RCM, Respondent RCM conducted a waste-disposal operation at the Site in violation of a regulation adopted by the Board under the Act, and thereby violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2020).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, RCM TRANSPORT, INC., an Illinois

corporation, on Count V:

- A. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;
- B. Finding that Respondent violated the Act and Board regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and Board regulations;
- D. Assessing against each Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and Board regulations, and an additional 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) (2020);
- E. Ordering Respondent to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2020), including any attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and
- F. Granting such other relief as the Board may deem appropriate.

COUNT VI
WASTE DISPOSAL AT AN IMPROPER SITE

1-41. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 33 of Count I, paragraphs 34 through 36 of Count IV, and paragraphs 35 through 39 of Count V as paragraphs 1 through 41 of this Count VI.

42. Section 21(e) of the Act, 415 ILCS 5/21(e) (2020), provides as follows:

No person shall:

* * *

- (e) Dispose, treat, store or abandon any waste, or transport any waste into this State for disposal, treatment, storage or abandonment, except at a site or facility which meets the

requirements of this Act and of regulations and standards thereunder.

43. On or before November 20, 2019, and on dates better known to Respondent RCM, Respondent RCM disposed of, stored, and/or abandoned wastes at the Site.

44. The Site is not a waste disposal site or facility that meets the requirements of the Act and of the regulations and standards promulgated thereunder.

45. By disposing, storing, and/or abandoning wastes at the Site, Respondent RCM violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2020).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, RCM TRANSPORT, INC., an Illinois corporation, on Count VI:

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

B. Finding that Respondent violated the Act and Board regulations as alleged herein;

C. Ordering Respondent to cease and desist from any further violations of the Act and Board regulations;

D. Assessing against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and Board regulations, and an additional 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) (2020);

E. Ordering Respondent to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2020), including any attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

- F. Granting such other relief as the Board may deem appropriate.

COUNT VII
AIR POLLUTION – OPEN BURNING

1-33. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 33 of Count I as paragraphs 1 through 33 of this Count VII.

34. On November 14, 2019, an Illinois EPA employee received a call from the Knox County Landfill, informing Illinois EPA that Respondent RCM and Respondent TIM SCHISLER were transporting burned waste to the landfill.

35. On dates better known to Respondent RCM, Respondent RCM caused or allowed the Demolition Project waste to be open burned at the Site.

36. Section 9 of the Act, 415 ILCS 5/9 (2020), provides, in pertinent part, 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.

* * *

- (c) Cause or allow the open burning of refuse. . . . except that the Board may adopt regulations permitting open burning of refuse in certain cases upon a finding that no harm will result from such burning, or that any alternative method of disposing of such refuse would create a safety hazard so extreme as to justify the pollution that would result from such burning.

37. Section 3.165 of the Act, 415 ILCS 5/3.165 (2020), provides as follows:

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

38. Section 3.115 of the Act, 415 ILCS 5/3.115 (2020), provides as follows:

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

39. Section 3.300 of the Act, 415 ILCS 5/3.300 (2020), provides as follows:

“Open burning” is the combustion of any matter in the open or in an open dump.

40. On or before November 20, 2019, and on dates better known to Respondent RCM, Respondent RCM caused or allowed the open burning of refuse in such a manner that was not approved by Illinois EPA or the Board.

41. On or before November 20, 2019, and on dates better known to Respondent RCM, Respondent RCM caused or allowed the open burning of refuse at the Site, and thereby caused or threatened or allowed the discharge or emission of contaminants into the environment so as to cause or tend to cause air pollution in Illinois.

42. By causing or threatening or allowing the discharge or emission of contaminants into the environment so as to cause or tend to cause air pollution in Illinois, Respondent RCM violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2020).

43. By causing or allowing the open burning of refuse in a manner that was not approved by the Agency or the Board, Respondent RCM violated Section 9(c) of the Act, 415 ILCS 5/9(c) (2020).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, RCM TRANSPORT, INC., an Illinois corporation, on Count VII:

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

B. Finding that Respondent violated the Act and Board regulations as alleged herein;

C. Ordering Respondent to cease and desist from any further violations of the Act and Board regulations;

D. Assessing against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and Board regulations, and an additional 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) (2020);

E. Ordering Respondent to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2020), including any attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

F. Granting such other relief as the Board may deem appropriate.

COUNT VIII
OPEN DUMPING RESULTING IN OPEN BURNING

1-37. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 33 of Count I and paragraphs 35 through 38 of Count VII as paragraphs 1 through 37 of this Count VIII.

38. Section 21(p)(3) of the Act, 415 ILCS 5/21(p)(3) (2020), 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:

* * *

(3) open burning;

39. On or before November 19, 2019, and on dates better known to Respondents, Respondents caused or allowed the open dumping of wastes at the Site in a manner that resulted in open burning.

40. By causing or allowing open dumping at the Site that resulted in open burning, Respondents violated Section 21(p)(3) of the Act, 415 ILCS 5/21(p)(3) (2020).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, TIM SCHISLER d/b/a MAPLE CITY CONSTRUCTION, an unincorporated entity and RCM TRANSPORT, INC., an Illinois corporation, on Count VIII:

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

B. Finding that Respondents violated the Act and Board regulations as alleged herein;

C. Ordering Respondents to cease and desist from any further violations of the Act and Board regulations;

D. Assessing against each Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and Board regulations, and an additional 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) (2020);

E. Ordering Respondents to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2020), including any attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

F. Granting such other relief as the Board may deem appropriate.

Respectfully submitted,

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

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

BY: /s/ Andrew Armstrong
ANDREW B. ARMSTRONG, Chief
Environmental Bureau
Assistant Attorney General

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

| | | |
|--|---|-----------------------|
| PEOPLE OF THE STATE OF ILLINOIS, |) | |
| by KWAME RAOUL, Attorney General |) | |
| of the State of Illinois, |) | |
| |) | |
| Complainant, |) | |
| |) | |
| v. |) | PCB No. 2022 - |
| |) | |
| TIM SCHISLER |) | |
| d/b/a MAPLE CITY CONSTRUCTION, |) | |
| an unincorporated entity, and RCM |) | |
| TRANSPORT, INC., an Illinois corporation, |) | |
| |) | |
| Respondents. |) | |

STIPULATION AND PROPOSAL FOR SETTLEMENT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, the Illinois Environmental Protection Agency ("Illinois EPA"), and TIM SCHISLER d/b/a MAPLE CITY CONSTRUCTION, an unincorporated entity and RCM TRANSPORT, INC., an Illinois corporation, ("Respondents"), (collectively "Parties to the Stipulation"), have agreed to the making of this Stipulation and Proposal for Settlement ("Stipulation") and submit it to the Illinois Pollution Control Board ("Board") for approval. This stipulation of facts is made and agreed upon for purposes of settlement only and as a factual basis for the Board's approval of this Stipulation and issuance of relief. None of the facts stipulated herein shall be introduced into evidence in any other proceeding regarding the violations of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/1, et seq. (2020), and the Board's regulations, alleged in the Complaint except as otherwise provided herein. It is the intent of the Parties to the Stipulation that it be a final adjudication of this matter.

I. STATEMENT OF FACTS

A. Parties

1. Concurrently with this Stipulation, a Complaint was filed on behalf of the People of the State of Illinois by Kwame Raoul, Attorney General of the State of Illinois, on his own motion and upon the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2020), against the Respondents.

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 (2020).

3. At all times relevant to the Complaint, Respondent TIM SCHISLER was a resident of Illinois.

4. At all times relevant to the Complaint, Respondent TIM SCHISLER owned and operated a demolition and construction business under the name of Maple City Construction, an unincorporated entity.

5. At all times relevant to the Complaint, ROBERT MUNSON was a resident of Illinois. On June 4, 2021, ROBERT MUNSON passed away.

6. At all times relevant to the Complaint, ROBERT MUNSON owned the property located on the west side of 90th Street, approximately 0.5 miles north of 245th Avenue, Latitude 40.99393, Longitude -90.61141, Gerlaw, Warren County, Illinois (the "Site").

7. At all times relevant to the Complaint, ROBERT MUNSON was the president of Respondent RCM TRANSPORT, INC. ("RCM").

8. At all times relevant to the Complaint, Respondent RCM was an Illinois corporation. As of the filing of the Complaint, Respondent RCM was not in good standing with the Illinois Secretary of State.

9. At all times relevant to the Complaint, Respondent RCM operated a waste hauling business.

B. Allegations of Non-Compliance

Complainant contends that the Respondents have violated the following provisions of the Act and Board regulations:

Count I: Open Dumping of Waste
Section 21(a) of the Act, 415 ILCS 5/21(a) (2020).

Count II: Open Dumping Resulting in Litter
Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2020).

Count III: Open Dumping Resulting in Deposition of General Construction or Demolition Debris
Section 21(p)(7) of the Act, 415 ILCS 5/21(p)(7) (2020).

Count IV: Conducting a Waste Disposal Operation Without a Permit
Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) and (5) (2020).

Count V: Conducting a Waste Disposal Operation Without Submitting a Permit Application to the Illinois EPA
Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2020), and Section 812.101(a) of the Board's regulations.

Count VI: Waste Disposal at Improper Site
Section 21(e) of the Act, 415 ILCS 5/21(e) (2020).

Count VII: Air Pollution – Open Burning
Section 9(a) and (c) of the Act, 415 ILCS 5/9(a) and (c) (2020).

Count VIII: Open Dumping Resulting in Open Burning
Section 21(p)(3) of the Act, 415 ILCS 5/21(p)(3) (2020).

C. Admission of Violations

The Respondents represent that they have entered into this Stipulation for the purpose of settling and compromising disputed claims without having to incur the expense of contested litigation. By entering into this Stipulation and complying with its terms, the Respondents do not affirmatively admit the allegations of violation within the Complaint and referenced within Section

I.B herein, and this Stipulation shall not be interpreted as including such admission.

D. Compliance Activities to Date

All waste was removed from the Site by November 20, 2019. All waste was properly disposed of at a facility that meets the requirements of the Illinois EPA for disposal of waste.

II. APPLICABILITY

This Stipulation shall apply to and be binding upon the Parties to the Stipulation. The Respondents shall not raise as a defense to any enforcement action taken pursuant to this Stipulation the failure of any of their officers, directors, agents, employees or successors or assigns to take such action as shall be required to comply with the provisions of this Stipulation. This Stipulation may be used against the Respondents in any subsequent enforcement action or permit proceeding as proof of a past adjudication of violation of the Act and the Board Regulations for all violations alleged in the Complaint in this matter, for purposes of Sections 39 and 42 of the Act, 415 ILCS 5/39 and 42 (2020).

III. IMPACT ON THE PUBLIC RESULTING FROM ALLEGED NON-COMPLIANCE

Section 33(c) of the Act, 415 ILCS 5/33(c) (2020), provides as follows:

In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges, or deposits involved including, but not limited to:

1. the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
2. the social and economic value of the pollution source;
3. the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;

4. the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
5. any subsequent compliance.

In response to these factors, the Parties to the Stipulation state the following:

1. Human health and the environment were threatened by Respondents' alleged violations.
2. There is social and economic benefit from the Respondents' businesses so long as they are operated in compliance with the Act and Board regulations.
3. Operation of the Respondents' businesses are suitable for the area in which they are located so long as they are operated in compliance with the Act and Board regulations.
4. Disposing of the waste at a properly permitted disposal facility instead of at the Site was both technically practicable and economically reasonable.
5. Respondents have subsequently complied with the Act and the Board regulations with respect to the Site.

IV. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h) (2020), provides as follows:

In determining the appropriate civil penalty to be imposed under . . . this Section, the Board is authorized to consider any matters of record in mitigation or aggravation of penalty, including but not limited to the following factors:

1. the duration and gravity of the violation;
2. the presence or absence of due diligence on the part of the respondent in attempting to comply with requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;
3. any economic benefits accrued by the respondent because of delay in compliance with requirements, in which case the economic

benefits shall be determined by the lowest cost alternative for achieving compliance;

4. the amount of monetary penalty which will serve to deter further violations by the respondent and to otherwise aid in enhancing voluntary compliance with this Act by the respondent and other persons similarly subject to the Act;
5. the number, proximity in time, and gravity of previously adjudicated violations of this Act by the respondent;
6. whether the respondent voluntarily self-disclosed, in accordance with subsection (i) of this Section, the non-compliance to the Agency;
7. whether the respondent has agreed to undertake a supplemental environmental project, which means an environmentally beneficial project that a respondent agrees to undertake in settlement of an enforcement action brought under this Act, but which the respondent is not otherwise legally required to perform; and
8. whether the respondent has successfully completed a Compliance Commitment Agreement under subsection (a) of Section 31 of this Act to remedy the violations that are the subject of the complaint.

In response to these factors, the Parties to the Stipulation state as follows:

1. The Respondents remediated the violations by November 20, 2019.
2. Respondents were diligent in attempting to come back into compliance with the Act, Board regulations and applicable federal regulations, once the Illinois EPA notified them of their non-compliance.
3. The civil penalty takes into account any economic benefit realized by the Respondents as a result of avoided or delayed compliance.
4. Complainant has determined, based upon the specific facts of this matter, that civil penalties of Eight Thousand and Two Hundred Dollars (\$8,200.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.
5. To Complainant's knowledge, Respondents have no previously adjudicated

violations of the Act.

6. Self-disclosure is not at issue in this matter.
7. The settlement of this matter does not include a supplemental environmental project.
8. A Compliance Commitment Agreement was not at issue in this matter.

V. TERMS OF SETTLEMENT

A. Penalty Payment

1. Respondent TIM SCHISLER shall pay a civil penalty in the sum of Two Thousand dollars (\$2,000.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

2. Respondent RCM shall pay a civil penalty in the sum of Six Thousand Two Hundred Dollars (\$6,200.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

B. Interest and Default

1. If a Respondent fails to make any payment required by this Stipulation on or before the date upon which the payment is due, said Respondent(s) shall be in default and the remaining unpaid balance of the penalty, plus any accrued interest, shall be due and owing immediately. In the event of default, the Complainant shall be entitled to reasonable costs of collection, including reasonable attorney's fees.

2. Pursuant to Section 42(g) of the Act, interest shall accrue on any penalty amount owed by the Respondent(s) not paid within the time prescribed herein. Interest on unpaid penalties shall begin to accrue from the date such are due and continue to accrue to the date full payment is received. Where partial payment is made on any penalty amount that is due, such partial payment

shall be first applied to any interest on unpaid penalties then owing.

C. Payment Procedures

1. All payments required by this Stipulation shall be made by certified check or money order payable to the Illinois EPA for deposit into the Environmental Protection Trust Fund ("EPTF"). Payments shall be sent by first class mail and delivered to:

Illinois Environmental Protection Agency
Fiscal Services #2
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62702

2. The case name and case number shall appear on the face of the certified check or money order.

3. A copy of the certified check or money order and any transmittal letter shall be sent to:

Brian Navarrete
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
500 South Second Street
Springfield, Illinois 62701

D. Future Compliance

1. This Stipulation in no way affects the responsibilities of the Respondents to comply with any other federal, state or local laws or regulations, including but not limited to the Act and the Board Regulations.

2. The Respondents shall cease and desist from future violations of the Act and Board Regulations that were the subject matter of the Complaint.

E. Release from Liability

In consideration of the Respondents' payment of the civil penalties required by Section

V.A above , and their commitment to cease and desist as contained in Section V.D.2 above, and upon the Board's approval of this Stipulation, the Complainant releases, waives and discharges the Respondents from any further liability or penalties for the violations of the Act and Board regulations that were the subject matter of the Complaint herein. The release set forth above does not extend to any matters other than those expressly specified in Complainant's Complaint filed concurrently with this Stipulation. The Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against the Respondents with respect to all other matters, including but not limited to, the following:

- a. criminal liability;
- b. liability for future violation of state, federal, local, and common laws and/or regulations;
- c. liability for natural resources damage arising out of the alleged violations; and
- d. liability or claims based on the Respondents' failure to satisfy the requirements of this Stipulation.

Nothing in this Stipulation is intended as a waiver, discharge, release, or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the State of Illinois may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315 (2020), or entity other than the Respondents.

F. Enforcement of Stipulation

Upon the entry of the Board's Order approving and accepting this Stipulation, that Order is a binding and enforceable order of the Board and may be enforced as such through any and all available means.

G. Execution of Stipulation

The undersigned representatives for the Parties to the Stipulation certify that they are fully

authorized by the party whom they represent to enter into the terms and conditions of this Stipulation and to legally bind them to it.

WHEREFORE, the Parties to the Stipulation request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

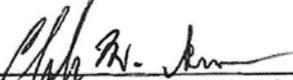
PEOPLE OF THE STATE OF ILLINOIS
KWAME RAOUL
Attorney General
State of Illinois

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

MATTHEW J. DUNN, Chief
Environmental Enforcement/
Asbestos Litigation Division

JOHN J. KIM, Director
Illinois Environmental Protection Agency

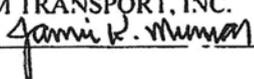
BY: 
ANDREW B. ARMSTRONG, Chief
Assistant Attorney General
Environmental Bureau

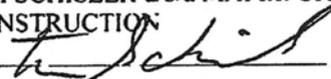
BY: 
CHARLES W. GUNNARSON
Chief Legal Counsel

DATE: 10/08/2021

DATE: 10/5/21

RESPONDENTS

RCM TRANSPORT, INC.


TIM SCHISLER d/b/a MAPLE CITY
CONSTRUCTION


DATE: 9/23/2021

DATE: 9-23-2021

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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| v. |) | PCB No. 2022 - |
| |) | (Enforcement – Land) |
| TIM SCHISLER |) | |
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| an unincorporated entity, and RCM |) | |
| TRANSPORT, INC., an Illinois corporation, |) | |
| |) | |
| Respondents. |) | |

MOTION FOR RELIEF FROM HEARING REQUIREMENT

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, and requests relief from a hearing in this matter. In support thereof, Complainant states as follows:

1. Simultaneously with the filing of this motion, Complainant filed a Complaint in this matter as well as a Stipulation and Proposal for Settlement executed between Complainant and Respondents, TIM SCHISLER d/b/a MAPLE CITY CONSTRUCTION and RCM TRANSPORT, INC (“Parties”).

2. Section 31(c)(2) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31(c)(2) (2020), provides as follows:

(c)(2) Notwithstanding the provisions of subdivision (1) of this subsection (c), whenever a complaint has been filed on behalf of the Agency or by the People of the State of Illinois, the parties may file with the Board a stipulation and proposal for settlement accompanied by a request for relief from the requirement of a hearing pursuant to subdivision (1). Unless the Board, in its discretion, concludes that a hearing will be held, the Board shall cause notice of the stipulation, proposal and request for relief to be published and sent in the same

manner as is required for hearing pursuant to subdivision (1) of this subsection. The notice shall include a statement that any person may file a written demand for hearing within 21 days after receiving the notice. If any person files a timely written demand for hearing, the Board shall deny the request for relief from a hearing and shall hold a hearing in accordance with the provisions of subdivision (1).

3. The Parties have reached agreement on all outstanding issues in this matter.

4. The Parties agree that a hearing on the Stipulation and Proposal for Settlement is not necessary, and respectfully request relief from such a hearing as allowed by 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2020)

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby requests relief from the requirement of a hearing pursuant to Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2020).

Respectfully submitted,

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

MATTHEW J. DUNN, Chief
Environmental Enforcement/
Asbestos Litigation Division

By: /s/Brian M. Navarrete
BRIAN M. NAVARRETE
Environmental Bureau
Assistant Attorney General

Brian M. Navarrete
Assistant Attorney General
Environmental Bureau
Illinois Attorney General
500 South Second Street
Springfield, Illinois 62701
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bnavarrete@ilag.gov

CERTIFICATE OF SERVICE

I hereby certify that I did on October 15, 2021, send as indicated a true and correct copy of the documents entitled Notice of Filing, Complaint, Stipulation, Motion for Relief from Hearing Requirements and Certificate of Service to the following.

Marcum A. Spears represents RCM
marcum@spears-law.com

Maple City Construction
Attn: Tim Schisler
416 West 5th Avenue
Monmouth, Illinois 61462

s/Theresa M. Flinn
Theresa M. Flinn
Administrative Secretary

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil , Procedure, the undersigned certifies that the statements set forth in this Certificate of Service are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.

s/Theresa M. Flinn
Theresa M. Flinn
Administrative Secretary