

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB No. 2020-
)	
JANE COONEY, an individual, and)	
JANE COONEY, D.D.S., P.C.,)	
an Illinois corporation,)	
)	
Respondents.)	

NOTICE OF ELECTRONIC FILING

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

Respectfully submitted,

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

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

BY: s/Christina L. Nannini
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Dated: November 12, 2019

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
by KWAME RAOUL, Attorney General)	
of the State of Illinois,)	
)	
Complainant,)	
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v.)	PCB No. 2020-
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JANE COONEY, an individual, and)	
JANE COONEY, D.D.S., P.C.)	
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, JANE COONEY and JANE COONEY, D.D.S., P.C., as follows:

COUNT I
OPEN DUMPING OF WASTE

1. This Count is brought on behalf of the People of the State of Illinois, by KWAME RAOUL, Attorney General of the State of Illinois, against Respondents JANE COONEY and JANE COONEY, D.D.S., P.C., on his own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA").

2. Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2018), and charged, *inter alia*, with the duty of enforcing the Act.

3. Respondent Jane Cooney ("Respondent Cooney") is an Illinois resident who resides in Danville, Illinois.

4. Respondent Jane Cooney, D.D.S., P.C. ("Respondent Cooney, P.C.") is an Illinois corporation in good standing and authorized to do business in the State of Illinois by the Illinois Secretary of State. Respondent Cooney, P.C., operates Respondent Cooney's dental practice located at 700 West Fairchild Street, Danville, Illinois ("Dental Office"). Respondent Cooney is the President and Secretary of Cooney, P.C.

5. Respondent Cooney is also the owner of rural property located at 9737 East 2150 North Road, Oakwood, Illinois ("Oakwood Site").

6. On July 5, 2017, the Vermilion County Health Department inspected the Oakwood Site.

7. On July 5, 2017, the Vermilion County Health Department observed a burn barrel at the Oakwood Site that contained burned waste including hundreds of glass vials that appeared to have contained dental anesthetic serum and been exposed to fire.

8. On July 11, 2017, the Vermilion County Health Department inspected the Dental Office.

9. On July 11, 2017, the Vermilion County Health Department observed, stored on the floor of the Dental Office, red plastic bags containing medical waste generated at the Dental Office.

10. During the Vermilion County Health Department's July 11, 2017 inspection, Respondent Cooney stated that the red plastic bags containing medical waste were stored on the floor of the Dental Office until she transported the waste to the Oakwood Site to dispose of it by burning.

11. On July 12, 2017, the Vermilion County Health Department again inspected the Dental Office, to access a garage that had been locked during the July 11, 2017 inspection.

12. On July 12, 2017, the Vermilion County Health Department observed two plastic detergent bottles with duct tape over the lids in the Dental Office's garage.

13. During the Vermilion County Health Department's July 12, 2017 inspection, Respondent Cooney stated the two plastic detergent bottles contained used sharps from the Dental Office.

14. Section 21(a) of the Act, 415 ILCS 5/21(a) (2018), provides as follows:

No person shall:

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

15. Section 3.315 of the Act, 415 ILCS 5/3.315 (2018), provides as follows:

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

16. Respondent Cooney is an individual and therefore a "person" as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2018).

17. Respondent Cooney, P.C., is a corporation and therefore a "person" as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2018).

18. Section 3.535 of the Act, 415 ILCS 5/3.535 (2018), provides, in pertinent part, as follows:

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

19. Section 3.385 of the Act, 415 ILCS 5/3.385 (2018), provides as follows:

"Refuse" means waste.

20. The medical wastes generated by the Dental Office, including, but not limited to,

the glass vials, red plastic bags with medical waste, and detergent bottles with needles observed by the Vermilion County Health Department are “discarded material,” and therefore “waste” as that term is defined in Section 3.535 of the Act, 415 ILCS 5/3.535 (2018), and are therefore also “refuse” as that term is defined in Section 3.385 of the Act, 415 ILCS 5/3.385 (2018).

21. Section 3.305 of the Act, 415 ILCS 5/3.305 (2018), provides as follows:

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

22. Section 3.460 of the Act, 415 ILCS 5/3.460 (2018), provides as follows:

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

23. The Oakwood Site is a “site” as that term is defined in Section 3.460 of the Act, 415 ILCS 5/3.460 (2018).

24. Section 3.185 of the Act, 415 ILCS 5/3.185 (2018), provides as follows:

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

25. Waste was discharged, deposited, dumped, spilled, leaked, and/or placed on the land at the Oakwood Site in such a manner that waste, or constituents thereof, may enter the environment, be emitted into the air, or be discharged into surface or ground waters. Therefore, “disposal” occurred on the Site as that term is defined in Section 3.185 of the Act, 415 ILCS 5/3.185 (2018).

26. The Oakwood Site is a “site” on which waste had been “disposed,” as those terms

are defined in Sections 3.185 and 3.460 of the Act, 415 ILCS 5/3.185 and 5/3.460 (2018), making the Oakwood Site a “disposal site” as that term is used in Section 3.305 of the Act, 415 ILCS 5/3.305 (2018).

27. Section 3.445 of the Act, 415 ILCS 5/3.445 (2018), provides, in pertinent part, as follows:

“Sanitary landfill” means a facility permitted by the Agency for the disposal of waste on land ... without creating nuisance 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.

28. Section 3.105 of the Act, 415 ILCS 5/3.105 (2018), provides as follows:

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

29. At all times relevant to this Complaint, the Oakwood Site was not permitted by Illinois EPA for the disposal of wastes on land, and therefore is not a “sanitary landfill” as that term is defined in Section 3.445 of the Act, 415 ILCS 5/3.445 (2018).

30. Prior to July 5, 2017, and on dates better known to Respondents, Respondents caused or allowed the consolidation of refuse at a disposal site not meeting the requirements of a sanitary landfill, and therefore caused or allowed open dumping of waste at the Oakwood Site.

31. 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) (2018).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, JANE COONEY and JANE COONEY, D.D.S., P.C.:

- A. Finding that Respondents have violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2018);
- B. Ordering Respondents to cease and desist from any further violations of the Act;
- C. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2018), imposing upon each Respondent a civil penalty of up to \$50,000.00 for each violation of the Act, and an additional civil penalty of \$10,000 for each day such violations continued;
- D. Ordering Respondents to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action; and
- E. Granting such other relief as the Board may deem appropriate.

COUNT II
OPEN DUMPING RESULTING IN LITTER

1-30. Complainant realleges and incorporates by reference herein paragraphs I through 30 of Count I as paragraphs 1 through 30 of this Count II.

31. Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2018), 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;

32. Discarded materials present at the Oakwood Site on July 5, 2017, including, but not limited to, hundreds of glass vials, constitute litter.

33. Prior to July 5, 2017, and on dates better known to Respondents, Respondents caused or allowed the open dumping of waste at the Oakwood Site in violation of Section 21(a) of the Act, 415 ILCS 5/21(a) (2018), in a manner than resulted in litter, and thereby violated

Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2018).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, JANE COONEY and JANE COONEY, D.D.S., P.C.:

- A. Finding that Respondents have violated Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2018);
- B. Ordering Respondents to cease and desist from any further violations of the Act;
- C. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2018), imposing upon each Respondent a civil penalty of up to \$50,000.00 for each violation of the Act, and an additional civil penalty of \$10,000 for each day such violations continued;
- D. Ordering Respondents to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action; and
- E. Granting such other relief as the Board may deem appropriate.

COUNT III
CONDUCTING A WASTE-DISPOSAL OPERATION WITHOUT A PERMIT

1-29. Complainant realleges and incorporates by reference herein paragraphs 1 through 29 of Count I as paragraphs 1 through 29 of this Count III.

30. Respondents have never been granted a permit from Illinois EPA to conduct a waste-disposal operation at the Oakwood Site.

31. Prior to July 5, 2017, and on dates better known to Respondents, Respondents conducted a waste-disposal operation at the Oakwood Site without a permit granted by Illinois EPA.

32. By conducting a waste-disposal operation at the Oakwood Site without a permit

granted by Illinois EPA, Respondents violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2018).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, JANE COONEY and JANE COONEY, D.D.S., P.C.:

- A. Finding that Respondents have violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2018);
- B. Ordering Respondents to cease and desist from any further violations of the Act;
- C. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2018), imposing upon each Respondent a civil penalty of up to \$50,000.00 for each violation of the Act, and an additional civil penalty of \$10,000 for each day such violations continued; and
- D. Ordering Respondents to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action; and
- E. Granting such other relief as the Board may deem appropriate.

COUNT IV
DISPOSAL OF POTENTIALLY INFECTIOUS MEDICAL WASTE

1-19. Complainant realleges and incorporates by reference herein paragraphs 1 through 13 and 15 through 20 of Count I as paragraphs 1 through 19 of this Count IV.

20. Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2018), 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 ...

21. Section 56.1(A)(a) of the Act, 415 ILCS 5/56.1(A)(a) (2018), provides, in pertinent part, as follows:

(A) No person shall:

(a) Cause or allow the disposal of any potentially infectious medical waste.

22. Section 1420.104(a) of the Illinois Pollution Control Board's ("Board") Biological Materials Regulations, 35 Ill. Adm. Code 1420.104(a), provides, in pertinent part, as follows:

No person shall:

(a) Cause or allow the disposal of any PIMW.

23. Section 1420.102 of the Board's regulations, 35 Ill. Adm. Code 1420.102, provides, in pertinent part, as follows:

"Potentially Infectious Medical Waste" or "PIMW" means the following types of waste generated in connection with the diagnosis, treatment (i.e., provision of medical services), or immunization of human beings or animals; research pertaining to the provision of medical services; or the provision or testing of biologicals:

* * *

Used sharps. This waste shall include but not be limited to discarded sharps used in animal or human patient care, medical research, or clinical or pharmaceutical laboratories; hypodermic, intravenous, or other medical needles; hypodermic or intravenous syringes; Pasteur pipettes; scalpel blades; or blood vials. This waste shall also include but not be limited to other types of broken or unbroken

glass (including slides and cover slips) in contact with infectious agents.

24. The wastes generated at the Dental Office and disposed of at the Oakwood Site, including, but not limited to, used sharps, constitute "PIMW" as that term is defined in Section 1420.102 of the Board's regulations, 35 Ill. Adm. Code 1420.102.

25. The accumulation of PIMW at the Oakwood Site without certain plans for disposal elsewhere and without measures to confine or contain the waste's entry into the environment constitutes "disposal" as that term is defined in Section 3.185 of the Act, 415 ILCS 5/3.185 (2018).

26. Prior to July 5, 2017, and on dates better known to Respondents, Respondents caused or allowed the disposal of PIMW in violation of Section 56.1(A)(a) of the Act, 415 ILCS 5/56.1(A)(a) (2018), and Section 1420.104(a) of the Board's regulations, 35 Ill. Adm. Code 1420.104(a).

27. By violating Section 1420.104(a) of the Board's regulations, 35 Ill. Adm. Code 1420.104(a), Respondents conducted a waste-disposal operation in violation of a regulation adopted by the Board, and thereby violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2018).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, JANE COONEY and JANE COONEY, D.D.S., P.C.:

A. Finding that Respondents have violated Sections 56.1(A)(a) and 21(d)(2) of the Act, 415 ILCS 5/56.1(A)(a) and 5/21(d)(2) (2018), and Section 1420.104(a) of the Board's regulations, 35 Ill. Adm. Code 1420.104(a);

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

C. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2018), imposing upon each Respondent a civil penalty of up to \$50,000.00 for each violation of the Act and Board regulations, and an additional civil penalty of \$10,000 for each day such violations continued;

D. Ordering Respondents to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action; and

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

COUNT V
POTENTIALLY INFECTIOUS MEDICAL WASTE
PACKAGING AND LABELING VIOLATIONS

1-19. Complainant realleges and incorporates by reference herein paragraphs 1 through 13 and 15 through 20 of Count I as paragraphs 1 through 19 of this Count V.

20. Section 56.1(A)(b) of the Act, 415 ILCS 5/56.1(A)(b) (2018), provides, in pertinent part, as follows:

(A) No person shall:

* * *

(b) Cause or allow the delivery of any potentially infectious medical waste for transport, storage, treatment, or transfer except in accordance with Board regulations.

21. Section 1420.104(b) of the Board's regulations, 35 Ill. Adm. Code 1420.104(b), provides, in pertinent part, as follows:

No person shall:

* * *

(b) Cause or allow the delivery of any PIMW to a person or

facility for storage, treatment, or transfer except in accordance with the Board regulations.

22. Section 1421.121(a) of the Board's regulations, 35 Ill. Adm. Code 1421.121(a), provides as follows:

- (a) PIMW, except for oversized PIMW, must be placed in a container, or a combination of containers. Such container must be:
 - (1) rigid;
 - (2) leak-resistant;
 - (3) impervious to moisture;
 - (4) of a strength sufficient to prevent tearing or bursting under normal conditions of use and handling; and
 - (5) sealed to prevent leakage during transport.

23. Section 1421.131(a)(1)(A) and (B) of the Board's regulations, 35 Ill. Adm. Code 1421.131(a)(1)(A), (B), provide as follows:

- (a) The exterior of the outer package must be marked as follows prior to shipment:
 - (1) The generator shall:
 - (A) Mark on two opposite sides of the package in lettering that is readable at a minimum distance of five (5) feet:
 - (i) The International Biohazard Symbol as shown in Illustration A of this Part and the word "Biohazard"; and
 - (ii) The word "sharps", if the package contains sharps.
 - (B) Mark with indelible ink in lettering that is legible on a water-resistant label or tag securely attached to or marked on the outer package:
 - (i) The generator's name,
 - (ii) The generator's address, and
 - (iii) The generator's phone number (a 24-

hour phone number, if available).

24. Wastes present at the Dental Office on July 11, 2017 and July 12, 2017, including, but not limited to, red plastic bags containing medical waste and plastic detergent bottles with duct tape over the lids containing needles, constitute "PIMW" as that term is defined in Section 1420.102 of the Board's regulations, 35 Ill. Adm. Code 1420.102.

25. The PIMW observed at the Dental Office was not placed in containers that were rigid, leak-resistant, impervious to moisture, of a strength sufficient to prevent tearing and bursting under normal conditions of use and handling, and sealed to prevent leakage during transport, in violation of Section 1421.121(a) of the Board's regulations, 35 Ill. Adm. Code 1421.121(a).

26. The PIMW observed at the Dental Office was not placed in containers that were marked with the International Biohazard Symbol on two opposite sides of the package and did not include the word "sharps" in violation of Section 1421.131(a)(1)(A) of the Board's regulations, 35 Ill. Adm. Code 1421.131(a)(1)(A).

27. The PIMW observed at the Dental Office was not placed in containers with the generator's name, address, and phone number in violation of Section 1421.131(a)(1)(B) of the Board's regulations, 35 Ill. Adm. Code 1421.131(a)(1)(B).

28. Prior to July 11, 2017, and on dates better known to Respondents, Respondents caused or allowed the delivery of PIMW for storage, treatment, or transfer in containers that did not meet the requirements of Sections 1421.121(a) and 1421.131(a)(1)(A) and (B) of the Board's regulations, 35 Ill. Adm. Code 1421.121(a) and 1421.131(a)(1)(A), (B) and therefore violated Section 56.1(A)(b) of the Act, 415 ILCS 5/56.1(A)(b) (2018), and Section 1420.104(b) of the Board's regulations, 35 Ill. Adm. Code 1420.14(b).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, JANE COONEY and JANE COONEY, D.D.S., P.C.:

A. Finding that Respondents have violated Section 56.1(A)(b) of the Act, 415 ILCS 5/56.1(A)(b) (2018), and Sections 1420.104(b), 1421.121(a), and 1421.131(a)(1)(A) and (B) of the Board's regulations, 35 Ill. Adm. Code 1420.104(b), 1421.121(a), and 1421.131(a)(1)(A), (B);

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

C. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2018), imposing upon each Respondent a civil penalty of up to \$50,000.00 for each violation of the Act and Board regulations, and an additional civil penalty of \$10,000 for each day such violations continued;

D. Ordering Respondents to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action; and

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

COUNT VI
WASTE DISPOSAL AT AN IMPROPER SITE

1-33. Complainant realleges and incorporates by reference herein paragraphs 1 through 30 of Count I and paragraphs 30 through 32 of Count III, as paragraphs 1 through 33 of this Count VI.

34. Section 21(e) of the Act, 415 ILCS 5/21(e) (2018), provides, in pertinent part, as follows:

No person shall:

* * *

- (e) Dispose, treat, store or abandon any waste . . . except at a site or facility which meets the requirements of this Act and of regulations and standards thereunder.

35. The Oakwood Site is not a site or facility that meets the requirements of the Act and of the regulations and standards promulgated thereunder for the disposal, storage, and/or abandonment of waste.

36. Prior to July 5, 2017, and on dates better known to Respondents, Respondents disposed of, stored, and/or abandoned wastes at the Oakwood Site.

37. By disposing, storing, and/or abandoning wastes at the Oakwood Site, a site that did not meet the requirements of the Act and of regulations and standards thereunder for such activities, Respondents violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2018).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against Respondents, JANE COONEY and JANE COONEY, D.D.S., P.C.:

- A. Finding that Respondents have violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2018);
- B. Ordering Respondents to cease and desist from any further violations of the Act;
- C. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2018), imposing upon each Respondent a civil penalty of up to \$50,000.00 for each violation of the Act, and an additional civil penalty of \$10,000 for each day such violations continued;
- D. Ordering Respondents to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action; and

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

COUNT VII
AIR POLLUTION – OPEN BURNING

1-21. Complainant realleges and incorporates by reference herein paragraphs 1 through 21 of Count I as paragraphs 1 through 21 of this Count VII.

22. Section 9 of the Act, 415 ILCS 5/9 (2018), 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.

23. Section 3.165 of the Act, 415 ILCS 5/3.165 (2018), provides as follows:

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

24. Section 3.115 of the Act, 415 ILCS 5/3.115 (2018), 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.

25. Section 3.300 of the Act, 415 ILCS 5/3.300 (2018), provides as follows:

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

26. On or before July 5, 2017, and on dates better known to Respondents, Respondents caused or allowed the open burning of refuse at the Oakwood Site in a manner that was not approved by Illinois EPA or the Board.

27. On or before July 5, 2017, and on dates better known to Respondents, Respondents caused or allowed the burning of refuse at the Oakwood Site, and thereby caused or threatened or allowed the discharge or emission of containments into the environment so as to cause or tend to cause air pollution in Illinois.

28. By causing or threatening or allowing the discharge or emission of containments into the environment so as to cause or tend to cause air pollution in Illinois, Respondents violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2018).

29. By causing or allowing the open burning of refuse in a manner that was not approved by the Agency or the Board, Respondents violated Section 9(c) of the Act, 415 ILCS 5/9(c) (2018).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against Respondents, JANE COONEY and JANE COONEY, D.D.S., P.C.:

- A. Finding that Respondents have violated Sections 9(a) and (c) of the Act, 415 ILCS 5/9(a), (c) (2018);
- B. Ordering Respondents to cease and desist from any further violations of the Act;
- C. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2018), imposing upon each Respondent a civil penalty of up to \$50,000.00 for each violation of the Act, and an

additional civil penalty of \$10,000 for each day such violations continued;

D. Ordering Respondents to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action; and

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

COUNT VIII
OPEN DUMPING RESULTING IN OPEN BURNING

1-33. Complainant realleges and incorporates by reference herein paragraphs 1 through 31 of Count I and paragraphs 25 and 26 of Count VII as paragraphs 1 through 33 of this Count VIII.

34. Section 21(p)(3) of the Act, 415 ILCS 5/21(p)(3) (2018), 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;

35. On or before July 5, 2017, and on dates better known to Respondents, Respondents caused or allowed the open dumping of wastes at the Oakwood Site in a manner that resulted in open burning.

36. By causing or allowing open dumping at the Oakwood Site that resulted in open burning, Respondents violated Section 21(p)(3) of the Act, 415 ILCS 5/21(p)(3) (2018).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against Respondents, JANE COONEY and JANE

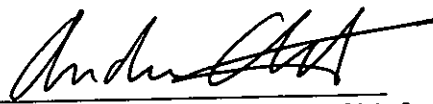
COONEY, D.D.S., P.C.:

- A. Finding that Respondents have violated Section 21(p)(3) of the Act, 415 ILCS 5/21(p)(3) (2018);
- B. Ordering Respondents to cease and desist from any further violations of the Act;
- C. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2018), imposing upon Respondents a civil penalty of up to \$50,000.00 for each violation of the Act, and an additional civil penalty of \$10,000 for each day such violations continued;
- D. Ordering Respondents to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action; and
- E. 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: 
ANDREW B. ARMSTRONG, Chief
Environmental Bureau
Assistant Attorney General

Christina L. Nannini
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB No. 2019-
)	(Enforcement - Land)
JANE COONEY, an individual, and)	
JANE COONEY, D.D.S., P.C.,)	
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"), JANE COONEY, an individual, and JANE COONEY, D.D.S., P.C., an Illinois corporation ("Respondents") (collectively "Parties to the Stipulation"), have agreed to enter into 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.* (2016), 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. Contemporaneous with the filing of this Stipulation, a Complaint was filed against the Respondents 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 (2016).

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 (2016).

3. Respondent Jane Cooney is an Illinois resident, owner of Jane Cooney, D.D.S., P.C. (a dental business), and owner of rural property located at 9737 East 2150 North Road, Oakwood, Illinois ("Oakwood Site").

4. Respondent Jane Cooney, D.D.S., P.C. is an Illinois corporation located at 700 West Fairchild Street, Danville, Illinois ("Dental Office").

4. On July 5, 2017, the Vermilion County Health Department inspected the Oakwood Site and observed a burn barrel that contained hundreds of glass vials.

5. On July 11, 2017, the Vermilion County Health Department inspected the Dental Office and observed waste storage and disposal violations.

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
415 ILCS 5/21(a)

- Count II: Open Dumping Resulting in Litter
415 ILCS 5/21(p)(1)
- Count III: Conducting a Waste-Disposal Operation Without a Permit
415 ILCS 5/21(d)(1)
- Count IV: Disposal of Potentially Infectious Medical Waste
415 ILCS 5/56.1(A)(a)
415 ILCS 5/21(d)(2)
35 Ill. Adm. Code 1420.104(a)
- Count V: Potentially Infectious Medical Waste Packaging and Labelling Violations
415 ILCS 5/56.1(A)(b)
35 Ill. Adm. Code 1420.104(b)
35 Ill. Adm. Code 1421.121(a)
35 Ill. Adm. Code 1421.131(a)(1)(A)
35 Ill. Adm. Code 1421.131(a)(1)(B)
- Count VI: Waste Disposal at an Improper Site
415 ILCS 5/21(e)
- Count VII: Air Pollution – Open Burning
415 ILCS 5/9(a)
415 ILCS 5/9(c)
- Count VIII: Open Dumping Resulting in Open Burning
415 ILCS 5/21(p)(3)

C. Non-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 to the allegations of violations in the Complaint and referenced within Section I.B herein, and this Stipulation shall not be interpreted as including such admission.

D. Compliance Activities

After being notified by Illinois EPA of the alleged violations at the Oakwood Site and the

Dental Office, Respondents contacted and retained an approved potentially infectious medical waste removal and disposal company, and has continued to use the same company to properly dispose of the waste that is the subject of the violations alleged in the Complaint filed in this matter.

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 its 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 (2016).

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

Section 33(c) of the Act, 415 ILCS 5/33(c) (2016), 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 to Respondents' business.
3. Operation of Respondents' business is suitable for the area in which it is operated, so long as it is operated in compliance with the Act and Board Regulations.
4. Compliance with the Act and Board Regulations is both technically practicable and economically reasonable.
5. Respondents have subsequently complied with the Act and Board Regulations.

IV. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h) (2016), 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. Beginning on or before July 5, 2017, Respondents did not properly store and dispose of potentially infectious medical waste.
2. Respondents were diligent in attempting to come back into compliance with the Act and Board Regulations, once the Illinois EPA notified Respondents of the 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 a penalty of Seven Thousand Five Hundred Dollars (\$7,500.00) will serve to deter 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. The Respondents, jointly and severally, shall pay a civil penalty in the sum of Seven Thousand Five Hundred Dollars (\$7,500.00) within forty five (45) calendar days from the date the Board adopts and accepts this Stipulation.

B. Interest and Default

1. If the Respondents fail to make any payment required by this Stipulation on or before the date upon which the payment is due, the Respondents 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 Respondents 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

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, IL 62794-9276

The name and case number shall appear on the face of the certified check or money order. A copy of the certified check or money order and any transmittal letter shall be sent to:

Christina L. Nannini
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
500 South Second Street
Springfield, Illinois 62706

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 \$7,500.00 penalty, the 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 alleged 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

contemporaneously 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, or entity other than the Respondents.

F. Enforcement

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.

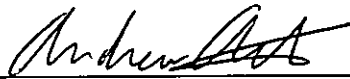
PEOPLE OF THE STATE OF ILLINOIS,


ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

KWAME RAOUL
Attorney General
State of Illinois

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

JOHN J. KIM, Acting Director
Illinois Environmental Protection Agency

BY: 
ANDREW ARMSTRONG, Chief
Environmental Bureau
Assistant Attorney General

BY: 
DANA VETTERHOFFER
Acting Chief Legal Counsel

DATE: 11/05/2019

DATE: 11-1-19

JANE COONEY, D.D.S., P.C.

BY: 
JANE COONEY, President

DATE: 6/3/19

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
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Complainant,)	
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v.)	PCB No. 2020-
)	
JANE COONEY, an individual, and)	
JANE COONEY, D.D.S., P.C.,)	
an Illinois corporation,)	
)	
Respondents.)	

MOTION FOR RELIEF FROM HEARING

NOW COMES Complainant, People of the State of Illinois, by Kwame Raoul, Attorney General of the State of Illinois, and requests relief from the requirement of a hearing in this matter. In support thereof, Complainant states as follows:

1. Filed contemporaneously with this Motion is a Stipulation and Proposal for Settlement executed between Complainant and the Respondents, Jane Cooney, and individual, and Jane Cooney, D.D.S., P.C., an Illinois corporation.

2. Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2018), 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. No hearing is scheduled in this matter.

4. Complainant hereby requests relief from the requirement of a hearing pursuant to Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2018).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,

KWAME RAOUL
ATTORNEY GENERAL

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

BY: /s/ Christina L. Nannini
CHRISTINA L. NANNINI
Assistant Attorney General
500 South Second Street
Springfield, Illinois 62706
(217) 782-9031
cnannini@atg.state.il.us
ebs@atg.state.il.us

Dated: November 12, 2019

CERTIFICATE OF SERVICE

I hereby certify that I have served on November 12, 2019, the foregoing Notice of Filing, Complaint, Stipulation and Proposal for Settlement, Motion for Relief from Hearing Requirement, by Certified Mail, Return Receipt Request, with postage thereon fully prepaid, by depositing in a United States Post Office Box in Springfield, Illinois by the time of 5:00 PM upon the following:

Jane Cooney, D.D.S., P.C.
c/o CT Corporation System, Registered Agent
208 South LaSalle Street, Suite 814
Chicago, IL 60604

Jane Cooney
700 West Fairchild Street
Danville, Illinois 61832

s/Christina L. Nannini
CHRISTINA L. NANNINI, #6327367
Assistant Attorney General
Environmental Bureau
500 South Second Street
Springfield, Illinois 62701
Telephone: (217) 782-9031
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