ILLINOIS POLLUTION CONTROL BOARD May 20, 2021

| PEOPLE OF THE STATE OF ILLINOIS, |) |
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| Complainant, |) |
| v. |) PCB 21-39 |
| BUENING IMPLEMENT, INC., an Illinois corporation, |) (Enforcement - Land)) |
| Respondent. |) |

ORDER OF THE BOARD (by A. Palivos):

On November 23, 2020, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a five-count complaint against Buening Implement, Inc. (Buening). The complaint concerns Buening's farm implement dealership located at 18880 North U.S. Highway 45 in Effingham, Effingham County. The parties now seek to settle without a hearing. For the reasons below, the Board directs the Clerk to provide public notice of the parties' stipulation, proposed settlement, and request for relief from the hearing requirement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2018)), the Attorney General and the State's Attorneys may bring actions before the Board to enforce Illinois' environmental requirements on behalf of the People. *See* 415 ILCS 5/31 (2018); 35 Ill. Adm. Code 103. In this case, the People allege that Buening violated:

Count I—Section 21(a) of the Act (415 ILCS 5/21(a) (2018)) by causing or allowing open dumping of waste at the disposal site;

Count II—Section 21(d)(1) of the Act (415 ILCS 5/21(d)(1) (2018)) and Section 812.101(a) of the Board's regulations (35 Ill. Adm. Code 812.101(a)) by developing and operating a landfill at the disposal site without applying for a permit from the Illinois Environmental Protection Agency (IEPA). By violating the Board's regulations, Buening also violated Sections 21(d)(2) of the Act (415 ILCS 5/21(d)(2) (2018));

Count III—Section 21(e) of the Act (415 ILCS 5/21(e) (2018)) by disposing of, storing, or abandoning waste at the disposal site;

Count IV—Section 808.121(a) of the Board's waste disposal regulations (35 III. Adm. Code 808.121(a)) by failing to conduct a special waste determination on the petroleum contaminated soil. By violating the Board's waste disposal regulations, Buening also violated Section 21(d)(2) of the Act (415 ILCS 21(d)(2) (2018)); and

Count V—Section 809.201 of the Board's waste disposal regulations (35 Ill. Adm. Code 809.201) by transporting the petroleum-contaminated soil from the source site to the disposal site without a special hauling permit. By violating Section 809.201 of the Board's waste disposal regulations, Buening also violated Section 21(j) of the Act (415 ILCS 21(j) (2018)).

On May 17, 2021, the People and Buening filed a stipulation and proposed settlement, accompanied by a request for relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (2018)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2018)), which requires that the public have an opportunity to request a hearing whenever the State and a respondent propose settling an enforcement action without a public hearing. See 35 Ill. Adm. Code 103.300(a). Under the proposed stipulation, Buening does not affirmatively admit the alleged violations and agrees to pay a civil penalty of \$21,000.

Unless the Board determines that a hearing is needed, the Board must cause notice of the stipulation, proposed settlement, and request for relief from the hearing requirement. Any person may file a written demand for hearing within 21 days after receiving the notice. If anyone timely files a written demand for hearing, the Board will deny the parties' request for relief and hold a hearing. See 415 ILCS 5/31(c)(2) (2018); 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk to provide the required notice.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on May 20, 2021, by a vote of 4-0.

Don A. Brown, Clerk

Illinois Pollution Control Board