## ILLINOIS POLLUTION CONTROL BOARD July 8, 2021

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
	)	
Complainant,	)	DCD 04 40.6
v.	)	PCB 21-106 (Enforcement - Water)
KNESS TRUCKING, INC., an Illinois	)	
corporation,	)	
Respondent.	)	
	)	

## OPINION AND ORDER OF THE BOARD (by B.F. Currie):

On April 30, 2020, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a one-count complaint against Kness Trucking, Inc. (Kness). The complaint concerns Kness' freight shipping and hauling transportation service located at 113 West Third Street in Chadwick, Carroll County. The parties now seek to settle without a hearing. For the reasons below, the Board accepts the parties' stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2018)), the Attorney General and the State's Attorneys may bring actions before the Board on behalf of the People to enforce Illinois' environmental requirements. *See* 415 ILCS 5/31 (2018); 35 Ill. Adm. Code 103. In this case, the People allege that Kness violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2018), Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a), and Conditions No. E.2, K.1, and K.3 of the Kness NPDES Permit by failing to timely submit a Storm Water Pollution Prevention Plan (SWPPP) and Annual Reports for the years 2017, 2018, and 2019.

On April 30, 2021, the People and Kness 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). The Board provided notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in Carroll County Mirror-Democrat on June 2, 2021. The Board did not receive any requests for hearing. The Board grants the parties' request for relief from the hearing requirement. See 415 ILCS 5/31(c)(2) (2018); 35 Ill. Adm. Code 103.300(b).

Section 103.302 of the Board's procedural rules sets forth the required contents of stipulations and proposed settlements. *See* 35 Ill. Adm. Code 103.302. These requirements include stipulating to facts on the nature, extent, and causes of the alleged violations and the nature of Kness' operations. Section 103.302 also requires that the parties stipulate to facts called for by Section 33(c) of the Act (415 ILCS 5/33(c) (2018)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Kness does not admit the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2018)), which may mitigate or aggravate the civil penalty amount. Under the proposed settlement, Kness agrees to pay a civil penalty of \$9,000.00 within 30 days after the date of this order. The People and Kness have satisfied Section 103.302. The Board accepts the stipulation and proposed settlement.

This opinion constitutes the Board's findings of fact and conclusions of law.

## **ORDER**

- 1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
- 2. Kness must pay a civil penalty of \$9,000.00 no later than August 9, 2021, which is the first business day following the 30th day after the date of this order. Kness must pay the civil penalty by certified check or money order payable to the Illinois Environmental Protection Agency for deposit into the Environmental Protection Trust Fund. The case name and case number must appear on the certified check or money order.
- 3. Kness must submit payment of the civil penalty to:

Illinois Environmental Protection Agency Fiscal Services Division 1021 North Grand Avenue East P.O. Box 19276 Springfield, Illinois 62794-9276

Kness must send a copy of the certified check or money order and any transmittal letter to:

Nancy J. Tikalsky Assistant Attorney General Environmental Bureau North Illinois Attorney General's Office 69 West Washington Street, Suite 1800 Chicago, IL 60602 ntikalsky@atg.state.il.us

- 4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2018)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2018)).
- 5. Kness must cease and desist from any further violations of Section 12(f) of the Act, 415 ILCS 5/12(f) (2020), Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a), and Conditions No. E.2, K.1, and K.3 of the Kness NPDES Permit.

## IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2018); see also 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; see also 35 Ill. Adm. Code 101.902, 102.700, 102.702. Filing a motion asking that the Board reconsider this final order is not a prerequisite to appealing the order. 35 Ill. Adm. Code 101.902.

Names and Addresses for Receiving Service of Any Petition for Review Filed with the Appellate Court			
Parties	Board		
People of the State of Illinois Attn: Nancy J. Tikalsky Assistant Attorney General Environmental Bureau Illinois Attorney General's Office 69 W. Washington Street, Suite 1800 nancy.tikalsky@illinois.gov	Illinois Pollution Control Board Attn: Don A. Brown, Clerk James R. Thompson Center 100 West Randolph Street, Suite 11-500 Chicago, Illinois 60601		
Kness Trucking, Inc. Attn: Scott Kness and Marilyn Selman 113 West Third Street Chadwick, IL 61014 marilyn.kness1@frontiernet.net			

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on July 8, 2021, by a vote of 4-0.

Don A. Brown, Clerk

on a.

Illinois Pollution Control Board