

ILLINOIS POLLUTION CONTROL BOARD
December 16, 2021

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 22-13
) (Enforcement – Land and Air)
TIM SCHISLER, d/b/a MAPLE CITY)
CONSTRUCTION, an unincorporated entity,)
and RCM TRANSPORT, INC., an Illinois)
corporation,)
)
Respondent.)

OPINION AND ORDER OF THE BOARD (by A. Palivos):

On October 15, 2021, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed an eight-count complaint against Tim Schisler d/b/a Maple City Construction (Schisler) and RCM Transport, Inc. (RCM Transport). The complaint concerns RCM Transport’s property located on the west side of 90th Street, approximately a half mile north of 245th Avenue, in Gerlaw, Warren 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 (2020)), 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 (2020); 35 Ill. Adm. Code 103. In this case, the People allege that Schisler and RCM Transport violated multiple sections of the Act. Counts I, II, III, VII, and VIII are alleged against both Schisler and RCM Transport, and Counts IV, V and VI are alleged against only RCM Transport, as follows:

- Count I Section 21(a) of the Act (415 ILCS 5/21(a) (2020)), by causing or allowing open dumping of waste;
- Count II Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2020)), by causing or allowing open dumping of waste in a manner that resulted in litter;
- Count III Section 21(p)(7)(i) of the Act (415 ILCS 5/21(p)(7) (2020)), by causing or allowing the open dumping of waste in a manner that resulted in the deposition of general construction or demolition debris;
- Count IV Section 21(d)(1) of the Act (415 ILCS 5/21(d)(1) (2020)), by conducting a waste-disposal operation without a permit;

- Count V Section 21(d)(2) of the Act (415 ILCS 5/21(d)(2) (2020)) and Section 812.101(a) of the Board's Waste regulations (35 Ill. Adm. Code 812.101(a)), by operating a landfill without a permit;
- Count VI Section 21(e) of the Act (415 ILCS 5/21(e) (2020)), by disposing, storing, and/or abandoning waste at an improper site;
- Count VII Section 9(a) and (c) of the Act (415 ILCS 5/9(a) and (c) (2020)), by causing, threatening or allowing the discharge or emission of contaminants into the environment so as to cause or tend to cause air pollution and by causing or allowing the open burning of refuse in a manner that was not approved by IEPA or the Board; and
- Count VIII Section 21(p)(3) of the Act (415 ILCS 5/21(p)(3) (2020)), by causing or allowing open dumping that resulted in open burning.

On October 15, 2021, the People, Schisler, and RCM Transport 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) (2020)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2020)), 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 the *Daily Review Atlas* on November 10, 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) (2020); 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 Schisler and RCM Transport's 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) (2020)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Schisler and RCM Transport neither admit nor deny the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2020)), which may mitigate or aggravate the civil penalty amount. Under the proposed settlement, Schisler agrees to pay a civil penalty of \$2,000.00, and RCM Transport agrees to pay a civil penalty of \$6,200.00 within 30 days after the date of this order. The People, Schisler, and RCM Transport 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. Schisler must pay a civil penalty of \$2,000, and RCM Transport must pay a civil penalty of \$6,200.00 no later than January 18, 2022, which is the first business day following the 30th day after the date of this order. Schisler and RCM Transport each 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. Schisler and RCM Transport must submit payment of the civil penalty to:

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

Schisler and RCM Transport must send a copy of each certified check or money order and any transmittal letter to:

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

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2020)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2020)).
5. Schisler and RCM Transport must cease and desist from future violations of the Environmental Protection Act and Board regulations that were the subject of the complaint.

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) (2020); *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
Illinois Attorney General's Office Attn: Brian Navarette Environmental Bureau Assistant Attorney General 500 South Second Street Springfield, Illinois 62701 Brian.Navarette@ilag.gov	Illinois Pollution Control Board Attn: Don A. Brown, Clerk James R. Thompson Center 100 West Randolph Street, Suite 11-500 Chicago, Illinois 60601
Maple City Construction Attn: Tim Schisler 416 West 5 th Avenue Monmouth, Illinois 61462	
RCM Transport, Inc. Attn: Marcum A Spears marcum@spears-law.com	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on December 16, 2021, by a vote of 5-0.



Don A. Brown, Clerk
 Illinois Pollution Control Board