



### **SUMMARY OF COMPLAINT**

In Count I, the People allege that Longwell violated Section 21(a) of the Act (415 ILCS 5/21(a) (2022)) by causing or allowing the open dumping of waste at the West Frankfort site. Comp. at 4-5.

In Count II, the People allege that Longwell violated Section 21(d)(1) of the Act (415 ILCS 5/21(d)(1) (2022)) by conducting a waste disposal operation at the West Frankfort site without a permit issued by Illinois Environmental Protection Agency (IEPA). Comp. at 6-7.

In Count III, the People allege that Longwell violated Section 21(e) of the Act (415 ILCS 5/21(e) (2022)) by disposing of the waste at the West Frankfort site, which did not meet the requirements of the Act and Board regulations for disposal of waste. Comp. at 7-8.

In Count IV, the People allege that Longwell violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2022)) by causing or allowing the open dumping of waste in a manner resulting in litter at the West Frankfort site. Comp. at 8-10.

In Count V, the People allege that Longwell violated 21(p)(3) of the Act (415 ILCS 5/21(p)(3) (2022)) by causing or allowing the open dumping of waste in a manner resulting in open burning at the West Frankfort site. Comp. at 11-12.

In Count VI, the People allege that Longwell violated Section 21(p)(7) of the Act (415 ILCS 5/21(p)(7) (2022)) by causing or allowing the open dumping of waste in a manner resulting in the deposition of general construction or demolition debris at the West Frankfort site. Comp. at 12-13.

In Count VII, the People allege that Longwell violated Section 9(a) of the Act (415 ILCS 5/9(a) (2022)) by causing, threatening, or allowing the emission of contaminants into the environment so as to cause or tend to cause air pollution in Illinois. Comp. at 13-14.

In Count VIII, the People allege that Longwell violated Section 9(c) of the Act (415 ILCS 5/9(c) (2022)) by causing or allowing the open burning of refuse in a chamber not approved by IEPA for the open burning of refuse. Comp. at 15-16.

### **PEOPLE’S MOTION TO DEEM FACTS ADMITTED**

The Board’s procedural rules provide that, except under circumstances not presented in this case, “the respondent must file an answer within 60 days after receipt of the complaint if respondent wants to deny any allegations in the complaint. All material allegations of the complaint will be taken as admitted if no answer is filed . . . .” 35 Ill. Adm. Code 103.204(d).

The People argue that, by failing to answer the complaint within 60 days or filing a motion that would extend that deadline, Longwell “has admitted the material allegation asserted in the Complaint.” Mot. at 2-3, citing 35 Ill. Adm. Code 103.204(d), (e). The People request

that the Board enter an order finding that Longwell has admitted all material allegations asserted in the complaint. *Id.* at 3.

Longwell failed to answer the complaint within 60 days after service, *i.e.*, by Monday, February 6, 2023. Longwell did not file a motion to extend the 60-day deadline. *See* 35 Ill. Adm. Code 103.204(d), 101.506. Longwell also failed to respond to the People's motion to deem facts admitted and waives objection to the Board granting it. *See* 35 Ill. Adm. Code 101.500(d). The Board grants the People's unopposed motion to deem facts admitted and deems admitted the material allegations in the People's complaint. *See* Ill. Adm. Code 103.204(d).

### **FACTS DEEMED ADMITTED**

Longwell was licensed in Illinois as an asbestos supervisor and advertised asbestos abatement services as "Longwell Abatement" and "Mike's Removal," neither of which is a registered legal entity authorized to do business in the State of Illinois. *Comp.* at 2. Asbestos is a known carcinogen with no safe level of exposure. *Id.* at 3.

On May 10, 2019, Longwell contracted with Nancy Rowold to remove vermiculite insulation from the attic of the Rowold residence in Herrin. On that date, Longwell removed at least four truckloads of waste from the residence. *Comp.* at 2.

Longwell transported asbestos-containing waste (ACW) and other waste removed from the Rowold residence to the West Frankfort site and disposed of it there. Longwell had leased the West Frankfort site but was evicted from it in October 2019. *Comp.* at 2.

The IEPA inspected the West Frankfort site on October 3, 2019. Near the entrance, IEPA observed numerous clear bags that had been taped shut and labeled "ACW." These bags appeared to contain household waste and landscape waste. IEPA also observed a burn pit containing food, beverage bottles, general refuse, and furniture. *Comp.* at 2.

IEPA also discovered a second accumulation of clear bags marked "ACW" in the northwest section of the property adjacent to a storage shed. These bags were all taped shut and in a pile with an estimated volume of four yards by four yards by one yard. These bags contained general construction debris suspected to be ACW. *Comp.* at 2. The ACW that Longwell had transported to and deposited at the West Frankfort site met the statutory definition of "general construction or demolition debris." *Id.* at 12, citing 415 ILCS 5/3.160(a) (2022).

IEPA also observed an open burning pit at the West Frankfort site. In it, Longwell had burned food, beverage bottles, general refuse, and furniture. *Comp.* at 11, citing 415 ILCS 5/21(p)(3) (2022). The open burn pit at the West Frankfort site was not a chamber approved by IEPA for the open burning of refuse. *Id.* at 15, citing 415 ILCS 5/9(c) (2022). By causing or allowing the open burning of refuse or waste and producing smoke, and heat plume, and flames at the West Frankfort site, Longwell caused, threatened, or allowed the discharge of contaminants into the environment so as to cause or tend to cause air pollution. *Id.* at 14, citing 415 ILCS 5/9(a) (2022).

The ACW, household waste, landscape waste, food, beverage bottles, general refuse, and furniture that Longwell deposited at the West Frankfort site were “waste” and “refuse” as those terms are defined in the Act. Comp. at 4, citing 415 ILCS 5/3.385, 3.535 (2022). The household waste, landscape waste, food, beverage bottles, general refuse, and furniture that Longwell deposited there also met the statutory definition of “litter.” Comp. at 9-10, citing 415 ILCS 5/21(p)(1), 105/3(a) (2022).

Longwell deposited waste on the land at the West Frankfort site so that the waste or its constituents could enter the environment or be emitted into the air or discharged into water including groundwater so that the waste had been disposed of as that is defined by the Act. Comp. at 4, citing 415 ILCS 5/3.185 (2022). By disposing of this waste on the ground at the West Frankfort site, Longwell caused or allowed the open dumping of waste resulting in litter, open burning, and depositing general construction or demolition debris. Comp. at 5, 10-12, citing 415 ILCS 5/21(a), 21(p)(1), 21(p)(3), 21(p)(7)(i) (2022). Longwell did not have a permit issued by IEPA to operate a waste disposal operation at the West Frankfort site. Comp. at 6, citing 415 ILCS 5/21(d)(1) (2022). The West Frankfort site did not meet the requirements of the Act and Board regulations for disposal of waste. Comp. at 8, citing 415 ILCS 5/21(e) (2022).

On March 11, 2020, IEPA submitted bagged waste labeled “ACW” for sampling. Most of the bags contained vermiculite insulation (Sample X201), and some contained vinyl flooring (Sample X202). On March 20, 2020, sampling results showed that Sample X201 contained 90 to 100% vermiculite insulation, but Sample X202 did not contain asbestos. Comp. at 3.

After the sampling results were provided to the owner of the West Frankfort site, the owner hired a company to remove the waste and properly dispose of it. The West End Landfill received a total of 0.87 tons of ACW from the West Frankfort site. Comp. at 3.

### **MOTION FOR SUMMARY JUDGMENT**

The People argue that the facts alleged in the complaint and deemed admitted by Longwell are sufficient to establish that Longwell violated the Act as alleged in the complaint. Mot. at 3-4. The People assert that there are no genuine issues of fact and that the People are entitled to judgment as a matter of law. *Id.*

A party has 14 days to respond after receiving a motion for summary judgment. 35 Ill. Adm. Code 101.516(a). If no response is filed, “the party waives objection to the granting of the motion, but the waiver of objection does not bind the Board or the hearing officer in its disposition of the motion.” 35 Ill. Adm. Code 101.500(d); *see People v. Env’tl Health and Safety Svcs., Inc.*, PCB 05-51, slip op. at 13 (July 23, 2009). Longwell did not respond to the People’s motion or request that the Board extend the response deadline. Longwell has waived any objection to the Board granting the motion for summary judgment.

The Board next provides relevant statutory provisions and standards for considering motions for summary judgment and then decides the motion.

### **Statutory Background**

Section 3.160(a) of the Act defines “general construction or demolition debris” in pertinent part as:

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; wall coverings; plaster; drywall; plumbing fixtures; non-asbestos insulation; roofing shingles and other roof coverings; reclaimed or other asphalt pavement; glass; plastics that are not sealed in a manner that conceals waste; electrical wiring and components containing no hazardous substances; and corrugated cardboard, piping or metals incidental to any of those materials.

General construction or demolition debris does not include uncontaminated soil generated during construction, remodeling, repair, and demolition of utilities, structures, and roads provided the uncontaminated soil is not commingled with any general construction or demolition debris or other waste. 415 ILCS 5/3.160 (2022).

Section 3.185 of the Act defines “disposal” as “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.” 415 ILCS 5/3.185 (2022).

Section 3.205 of the Act defines “generator” as “any person whose act or process produces waste.” 415 ILCS 5/3.205 (2022).

Section 3.300 of the Act defines “open burning” as “the combustion of any matter in the open or in an open dump.” 415 ILCS 5/3.300 (2022).

Section 3.305 of the Act defines “open dumping” as “the consolidation of refuse from one or more sources at a disposal site that does not fulfill the requirements of a sanitary landfill.” 415 ILCS 5/3.305 (2022).

Section 3.385 of the Act defines “refuse” as “waste.” 415 ILCS 5/3.385 (2022).

Section 3.445 of the Act defines “sanitary landfill” as:

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, 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. 415 ILCS 5/3.445 (2022).

Section 3.535 of the Act defines “waste” as:

any garbage, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility 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, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows, or coal combustion by-products as defined in Section 3.135, or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as now or hereafter amended, or source, special nuclear, or by-product materials as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 921) or any solid or dissolved material from any facility subject to the Federal Surface Mining Control and Reclamation Act of 1977 (P.L. 95-87) or the rules and regulations thereunder or any law or rule or regulation adopted by the State of Illinois pursuant thereto. 415 ILCS 5/3.535 (2022).

Section 9(a) of the Act states no person shall:

[c]ause 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. 415 ILCS 5/9(a) (2022).

Section 9(c) of the Act provides that no person shall:

cause or allow the open burning of refuse, conduct any salvage operation by open burning, or cause or allow the burning of any refuse in any chamber not specifically designed for the purpose and approved by the Agency pursuant to regulations adopted by the Board under this Act; 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. 415 ILCS 5/9(c) (2022).

Section 21(a) of the Act provides that “[n]o person shall cause or allow the open dumping of any waste.” 415 ILCS 5/21(a) (2022).

Section 21(d)(1) of the Act provides in pertinent part that no person shall “conduct any waste-storage, waste-treatment, or waste-disposal operation “without a permit granted by the Agency or in violation of any conditions imposed by such permit, including periodic reports and full access to adequate records and the inspection of

facilities, as may be necessary to assure compliance with this Act and with regulations and standards adopted thereunder.” 415 ILCS 5/21(d)(1).

Section 21(e) of the Act provides that no person shall “[d]ispose, 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.” 415 ILCS 5/21(e) (2022).

Section 21(p) of the Act provides in pertinent part that no person shall, “[i]n violation of subdivision (a) of the 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;
- (2) scavenging;
- (3) open burning;
- (4) deposition of waste in standing or flowing waters;
- (5) proliferation of disease vectors;
- (6) standing or flowing liquid discharge from the dump site;
- (7) deposition of:
  - (i) general construction or demolition debris as defined in Section 3.160(a) of this Act; or
  - (ii) clean construction or demolition debris as defined in Section 3.160(b) of this Act.” 415 ILCS 5/21(p) (2022).

Section 3(a) of the Litter Control Act defines “litter” as:

any discarded, used or unconsumed substance or waste. "Litter" may include, but is not limited to, any garbage, trash, refuse, cigarettes, 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. 415 ILCS 105/3(a) (2022).

### **Standard for Summary Judgment**

Summary judgment is appropriate when the pleadings, depositions, admissions, affidavits, and other items in the record show that there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law. 35 Ill. Adm. Code 101.516(b); *see Adames v. Sheahan*, 233 Ill. 2d 276, 295, 909 N.E.2d 742, 753 (2009); *Dowd & Dowd, Ltd. v. Gleason*, 181 Ill. 2d 460, 483, 693 N.E.2d 358, 370 (1998). When determining whether a genuine issue of material fact exists, the record “must be construed strictly against the movant and liberally in favor of the opponent.” *Adames*, 233 Ill. 2d at 295-96, 909 N.E.2d at 754; *Purtill*

v. Hess, 111 Ill. 2d 229, 240, 489 N.E.2d 867, 871 (1986). “It is well established that in deciding a motion for summary judgment the court may draw inferences from undisputed fact.” Makowski v. City of Naperville, 249 Ill. App. 3d 110, 119, 617 N.E. 2d 1251 (1993); Loyola Academy v. S & S Roof Maintenance, Inc., 146 Ill. 2d 263, 272, 586 N.E.2d 1211 (2d Dist. 1992). “However, where reasonable persons could draw divergent inferences from undisputed facts, the trier of fact should decide the issues and the summary judgment motion should be denied.” Makowski, 249 Ill. App. 3d at 119; Pyne v. Witmer, 129 Ill. 2d 351, 358, 543 N.E.2d 1304.

### **Ruling on Motion for Summary Judgment**

The facts deemed admitted establish that Longwell caused or allowed the open dumping of waste at the West Frankfort site resulting in litter, open burning, and the deposition of general construction or demolition debris. 415 ILCS 5/21(a), 21(p)(1), 21(p)(3), 21(p)(7) (2022). The facts deemed admitted also establish that Longwell conducted a waste disposal operation at the West Frankfort site, which did not meet the requirements of the Act and Board regulations, without a permit issued by IEPA. 415 ILCS 5/21(d)(1), 21(e) (2022). The facts deemed admitted further establish that Longwell caused or allowed the open burning of refuse at the West Frankfort site in a chamber not approved by IEPA for open burning of waste, which caused, threatened, or allowed the emission of contaminants into the environment so as to cause or tend to cause air pollution. 415 ILCS 5.9(a), 9(c) (2022).

On summary judgment, to determine whether a genuine issue of material fact exists, the Board must construe the record strictly against the People as movant and liberally in favor of Longwell as the non-moving party. Doing so, the Board finds that this case presents no genuine issue of material fact. The facts deemed admitted establish that Longwell violated Sections 9(a), 9(c), 21(a), 21(d)(1), 21(e), 21(p)(1), 21(p)(3), and 21(p)(7)(i) of the Act. Accordingly, the Board finds that the People are entitled to judgment as a matter of law. The Board grants the People’s unopposed motion for summary judgment, finding that Longwell violated Sections 9(a), 9(c), 21(a), 21(d)(1), 21(e), 21(p)(1), 21(p)(3), and 21(p)(7)(i) of the Act as alleged in the People’s complaint.

### **REMEDY**

Having found that Longwell violated Sections 9(a), 9(c), 21(a), 21(d)(1), 21(e), 21(p)(1), 21(p)(3), and 21(p)(7)(i) of the Act, the Board must now determine an appropriate remedy including any penalties.

In evaluating the record to determine a remedy, the Board considers the factors of Section 33(c) of the Act (415 ILCS 5/33(c) (2022)). If, after considering those factors, the Board decides to impose a civil penalty, then the Board considers the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2022)) to determine the appropriate amount of a civil penalty.

Section 33(c) of the Act states:



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:

- (i) the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
- (ii) the social and economic value of the pollution source;
- (iii) 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;
- (iv) the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
- (v) any subsequent compliance. 415 ILCS 5/33(c) (2022).

The People's motion addressed these factors: 1) "human health and the environment were threatened by Longwell's improper disposal of asbestos-containing waste" at the West Frankfort site; 2) "[t]here is social and economic benefit to the proper disposal of waste, if conducted in a manner compliant with the Act and Board's Regulations"; 3) the West Frankfort site "was not suitable for use as a waste disposal location"; 4) "[p]roper disposal of waste is technically practicable and economically reasonable"; and 5) Longwell "did not subsequently comply with the Act and Board Regulations." Mot. at 5-6. The People stress that the owner of the West Frankfort site removed and properly disposed of the ACW. *Id.* at 6. Based on these factors, the People ask the Board to assess a civil penalty of at least \$50,000. *Id.* at 6, 8.

The Board agrees with the People that Longwell's waste disposal violations threatened human health and the environment. This Board finds that this first Section 33(c) factor weighs against Longwell.

The Board also agrees with the People that there is social and economic benefit to the proper disposal of waste that complies with the Act, but the Board above found that Longwell violated numerous provisions of the Act. The Board finds that this factor weighs against Longwell.

The Board also agrees with the People that the West Frankfort site at which Longwell improperly disposed of waste was not suitable for that use. The Board finds that this factor weighs against Longwell.

The Board also agrees with the People that proper disposal of waste is both technically practicable and economically reasonable. The Board finds that this fourth factor also weighs against Longwell.

Finally, the Board notes that Longwell did not subsequently comply with the Act. The owner of the West Frankfort site removed and properly disposed of the ACW. The Board finds that this factor weighs against Longwell.

The Board finds that each of these statutory factors weighs against Longwell. The Board places particular weight on its findings that Longwell's violations threatened human health and the environment and that Longwell did not subsequently comply with the Act. The Board finds that the Section 33(c) factors favor requiring Longwell to pay a civil penalty.

Having concluded that the Section 33(c) factors support assessing a civil, the Board next applies the factors of Section 42(h) to consider the \$50,000 civil penalty requested by the People. Section 42(h) of the Act states that,

[i]n determining the appropriate civil penalty to be imposed under subdivisions (a), (b)(1), (b)(2), (b)(3), (b)(5), (b)(6), or (b)(7) of 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 determining the appropriate civil penalty to be imposed under subsection (a) or paragraph (1), (2), (3), (5), (6), or (7) of subsection (b) of this Section, the Board shall ensure, in all cases, that the penalty is at least as great as the economic benefits, if any, accrued by the respondent as a result of the violation, unless the Board finds that imposition of such penalty would result in an arbitrary or unreasonable financial hardship. However, such civil penalty may be off-set in whole or in part pursuant to a supplemental environmental project agreed to by the complainant and the respondent. 415 ILCS 5/42(h) (2022).

The People's motion addressed these factors. First, the People note that Longwell contracted for the disposal of ACW, for which he was not properly licensed. The People add that Longwell improperly disposed of the ACW on a residential site and by burning it in an open fire. Mot. at 8. Second, the People state that Longwell did not act diligently in this matter and did not assist in cleaning up the ACW. *Id.* Third, the People argue that the requested \$50,000 penalty includes any economic benefit that Longwell may have accrued as a result of his noncompliance. *Id.* Fourth, the People also argue that the requested \$50,000 penalty will deter further violations by Longwell and encourage future compliance by Longwell and others similarly situated. *Id.* at 8-9. Fifth, the People state that, to their knowledge, Longwell "has had no previously adjudicated violations. *Id.* at 9. Regarding the last three statutory factors, the People add that "[s]elf-disclosure is not at issue in this matter," Longwell "did not perform a supplemental environmental project," and "[a] Compliance Commitment Agreement was not at issue in this matter." Mot. at 9.

The Board agrees that Longwell contracted to perform disposal for which he was not licensed and then improperly disposed of waste in a manner that violated numerous provisions of the Act. The Board finds that the duration and gravity of these violations were extensive and that this factor weights against Longwell.

The Board agrees that Longwell showed a lack of diligence in complying with the requirements of the Act and Board regulations. The Board particularly notes that Longwell did not assist in cleaning up ACW and complying with the Act. The Board finds that this factor weights against Longwell.

The Board agrees with the People that the requested civil penalty of \$50,000 includes any economic benefit that Longwell may have accrued as a result of his noncompliance. The Board also finds that the suggested \$50,000 penalty will deter further violations by Longwell and ensure voluntary compliance with the Act and the Board's air pollution regulations. The Board finds that the third and fourth factors weigh against Longwell and support the People's requested penalty.

The People indicate that Longwell has no previously adjudicated violations, and the Board finds that this factor weighs in his favor. The People state that this matter did not involve

self-disclosure, a Compliance Commitment Agreement, or a supplement environmental project, and the Board does not weigh any of these three factors in favor of or against the People's requested penalty. Mot. at 9.

Based on this record and the statutory factors, the Board finds that the People's requested civil penalty of \$50,000 is appropriate. In making this finding, the Board places particular stress on the gravity and duration of the numerous violations and Longwell's lack of diligence in complying with the Act and Board regulations. The Board agrees with the People that the requested penalty amount will serve to encourage future compliance by Longwell and others similarly situated and recoup any economic benefit Longwell may have accrued from his noncompliance. In its order below, the Board assesses a civil penalty of \$50,000.

### **CONCLUSION**

The Board grants the People's unopposed motion to deem facts admitted. Based on the facts deemed admitted, the Board finds that there is no genuine issue of material fact and that the People are entitled to judgment as a matter of law. The Board accordingly grants the People's motion for summary judgment against Longwell. The Board finds that Longwell violated Sections 9(a), 9(c), 21(a), 21(d)(1), 21(e), 21(p)(1), 21(p)(3), and 21(p)(7)(i) of the Act (415 ILCS 5/9(a), 9(c), 21(a), 21(d)(1), 21(e), 21(p)(1), 21(p)(3), 21(p)(7)(i) (2022)) as alleged in the People's complaint. Having considered the factors of Sections 33(c) and 42(h) of the Act (415 ILCS 5/33(c) and 42(h) (2022)), the Board enters an order requiring Longwell to pay a civil penalty of \$50,000, as requested by the People.

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

### **ORDER**

1. The Board grants the People's unopposed motion to deem facts admitted and for summary judgment and finds that Longwell violated Sections 9(a), 9(c), 21(a), 21(d)(1), 21(e), 21(p)(1), 21(p)(3), and 21(p)(7)(i) of the Act (415 ILCS 5/9(a), 9(c), 21(a), 21(d)(1), 21(e), 21(p)(1), 21(p)(3), 21(p)(7)(i) (2022)).
2. Longwell must pay a civil penalty of \$50,000 no later than Monday, February 5, 2024, which is the first business day after 30 days from the date of this order. Payment must be made by certified check or money order payable to the Environmental Protection Trust Fund. The case number and case name must be included on the respective certified check or money order.
3. Longwell must send the certified check or money order to:

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

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Act (415 ILCS 5/42(g) (2022)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2022)).

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) (2022); *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.

<b>Names and Addresses for Receiving Service of Any Petition for Review Filed with the Appellate Court</b>	
<b>Parties</b>	<b>Board</b>
Illinois Attorney General’s Office Attn.: Hector Lareau, Asst. Attorney General Environmental Bureau 500 South 2nd Street Springfield, Illinois 62701 <a href="mailto:Hector.Lareau@ilag.gov">Hector.Lareau@ilag.gov</a>	Illinois Pollution Control Board Attn.: Don A. Brown, Clerk 60 E. Van Buren Street, Suite 630 Chicago, Illinois, 60605 <a href="mailto:don.brown@illinois.gov">don.brown@illinois.gov</a>
William Longwell 301 South 24th Street Herrin, Illinois 62948	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on January 4, 2024, by a vote of 4-0.



Don A. Brown, Clerk  
 Illinois Pollution Control Board