## ILLINOIS POLLUTION CONTROL BOARD October 2, 2014

PEOPLE OF THE STATE OF ILLINOIS,	)
Complainant,	)
v.	) PCB 14-14 ) (Enforcement – Land, Water)
DONLEY TRUCKING, INC., an Illinois corporation,	) (Enforcement – Land, water) )
Respondent.	)

## OPINION AND ORDER OF THE BOARD (by J.A. Burke):

On August 2, 2013, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a four-count complaint against Donley Trucking, Inc. (respondent). The complaint concerns respondent's trucking business located at 8998 West Outer Road, Williamsville, Sangamon 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 (2012)), the Attorney General may bring actions before the Board to enforce Illinois' environmental requirements on behalf of the People. *See* 415 ILCS 5/31 (2012); 35 Ill. Adm. Code 103. In this case, the People allege the following violations:

Count I: Respondent violated Section 12(f) of the Act (415 ILCS 5/12(f) (2012)) by causing, threatening or allowing the discharge of a contaminant from a point source without a National Pollutant Discharge Elimination System permit;

Count II: Respondent violated Section 21(d)(2) of the Act (415 ILCS 5/21(d)(2) (2012)) by failing to determine whether waste generated at the site is a hazardous or special waste, in violation of Sections 722.111 and 808.121 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 722.111 and 808.121;

Count III: Respondent violated Section 21(d)(2) of the Act (415 ILCS 5/21(d)(2) (2012)) by delivering waste to an unlicensed special waste hauler without a manifest, in violation of Sections 808.121(b), 808.122, and 809.301 of the Board's Waste Disposal Regulations, 35 III. Adm. Code 808.121(b), 808.122, and 809.301; and

Count IV: Respondent violated Section 21(e) of the Act (415 ILCS 5/21(e)

(2012)) by disposing of wastes, including wash water, oily residue, oil/water separator waste, fluorescent bulbs and various other

materials, at a site that is not a sanitary landfill.

On August 12, 2014, the People and respondent 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) (2012)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2012)), 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 from the hearing requirement. The newspaper notice was published in *The State Journal-Register* on September 4, 2014. 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) (2012); 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 III. Adm. Code 103.302. These requirements include stipulating to facts on the nature, extent, and causes of the alleged violations and the nature of respondent'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) (2012)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Respondent neither admits nor denies the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2012)), which may mitigate or aggravate the civil penalty amount. Respondent agrees to pay a civil penalty of \$8,500. The People and respondent 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. Donley Trucking, Inc. (Respondent) must pay a civil penalty of \$8,500 as follows: \$2,000 no later than November 3, 2014, which is the first business day following the 30th day after the date of this order; and a further \$1,300 each month for the five months thereafter. Respondent 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, case number, and respondent's federal tax identification number must appear on the face of the certified check or money order.
- 3. Respondent 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

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

Raymond J. Callery Environmental Bureau Illinois Attorney General's Office 500 South Second Street Springfield, Illinois 62706

- 4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (Act) (415 ILCS 5/42(g) (2012)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2012)).
- 5. Respondent shall cease and desist from future violations of the Act and Board regulations that were the subject matter 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) (2012); 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.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on October 2, 2014, by a vote of 4-0.

John T. Therriault, Clerk

Illinois Pollution Control Board

In T. Therrian