

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
<i>ex rel.</i> LISA MADIGAN, Attorney General)	
of the State of Illinois,)	
)	
Complainant,)	
)	
v.)	19 PCB
)	
SE TRANSPORT, INC., a dissolved Illinois)	
Corporation,)	
)	
Respondent.)	

NOTICE OF FILING

TO: See attached service list (VIA ELECTRONIC FILING)

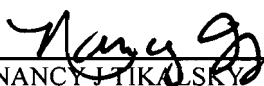
PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the following Complaint, a copy of which is attached and hereby served upon you. You may be required to answer the charges of the Complaint at a hearing before the Board, at a date set by the Board.

Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the clerk's office, or an attorney.

NOTIFICATION - YOU ARE HEREBY NOTIFIED that financing may be available through the Illinois Environmental Facilities Financing Act [20 ILCS 3515/1, et seq.] to correct the alleged violations.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
LISA MADIGAN, Attorney General of the State of
Illinois

By:  _____
 NANCY J. TIKALSKY
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 ARDC#: IL 6273159

Date: 17 September 2018

THIS FILING IS SUBMITTED ON RECYCLED PAPER


SERVICE LIST

For the Respondent

SE Transport, Inc.
Christine Wilson, President
601 Hartman Ln.
Waterloo, IL 62298

CERTIFICATE OF SERVICE

I, Nancy J Tikalsky, an Assistant Attorney General, certify that on the 17th day of August 2018, I caused to be served by Regular U.S. Mail the foregoing Notice of Filing and Complaint to the parties named on the attached Service List, by depositing same in postage prepaid envelopes with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois 60601.



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SE TRANSPORT, INC., a dissolved Illinois)
Corporation,)
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Respondent.)

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, complains of Respondent, SE TRANSPORT, INC., a dissolved Illinois corporation, as follows:

COUNT I

HAZARDOUS WASTE TRANSPORTER VIOLATIONS

1. This Count is brought by the Attorney General on her own motion and at the request of the Illinois Environmental Protection Agency (“Illinois EPA”), pursuant to Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2016).
2. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2016), and charged, *inter alia*, with the duty of enforcing the Act.
3. The Illinois Pollution Control Board (“Board”) is an independent board created by the Illinois General Assembly in Section 5 of the Act, 415 ILCS 5/5 (2016), and charged, *inter alia*, with the duty of promulgating standards and regulations under the Act.

4. Respondent, SE Transport, Inc. was an Illinois corporation registered with the Illinois Secretary of State's Office ("SE Transport").

5. On July 14, 2017, SE Transport, Inc. was involuntarily dissolved according to the Illinois Secretary of State's Office.

6. At all times relevant to this complaint, Respondent operated a waste transportation service located at 1950 Westgate Dr., Columbia, Monroe County, Illinois ("Facility").

7. Illinois EPA issued Respondent a Special Waste Hauling Permit # 5285 for its waste transport service ("Respondent's Permit"). At all times relevant to this complaint, Respondent failed to request a modification of Respondent's Permit.

8. At all times relevant to this complaint, the Facility was not permitted by the Illinois EPA for disposal, storage, or treatment of hazardous waste, including by a permit under the Resource Conservation and Recovery Act ("RCRA").

9. On December 21, 2015, the Illinois EPA conducted an inspection of the Facility ("December 2015 Inspection").

10. During the December 2015 Inspection, the Illinois EPA observed the following shipments of waste from Velocity Services LLC being stored at the Facility after Respondent had failed to deliver the shipments of waste to the designated disposal facility listed on the manifest:

Date Shipped	Manifest Number	Waste Codes	Number of Containers	Transporter	Designated Facility
8/16/2013	009291009JJK	D018, D026, K147, K148, U051	4 Boxes	SE Transport	EQ Detroit
9/20/2013	009291007JJK	D018, D026, K147, K148, U051	5 Boxes 4 Drums	SE Transport	EQ Detroit

11/22/2013	009291021JJK	D018, D026, K147, K148, U051	10 Boxes	SE Transport	EQ Detroit
2/18/2014	009291012JJK	D018, D026, K147, K148, U051	9 Boxes	SE Transport	EQ Detroit
2/18/2014	009291013JJK	D018, D026, K147, K148, U051	8 Drums	SE Transport	EQ Detroit
8/7/2014	009291014JJK	D018, D026, K147, K148, U051	26 Boxes 8 Drums	SE Transport	EQ Detroit
2/3/2015	009291017JJK	D018, D026, K147, K148, U051	11 Boxes 17 Drums	SE Transport	EQ Detroit
7/27/2015	009291006JJK	D018, D026, K147, K148, U051	13 Boxes 8 Drums	SE Transport	Veolia Sauget, IL

11. The waste included in these shipments with the waste codes listed above, are classified in the following manner and under the following sections of the Board's Identification and Listing of Hazardous Waste, Title 35, Part 721 of the Illinois Administrative Code ("Subject Waste"):

K147	Tar storage tank residues from coal tar refining	§ 721.132
K148	Residues from coal tar distillation, including, but not limited to, still bottoms	§ 721.132
D018	Benzene	§ 721.124
D026	Cresol	§ 721.124
U051	Creosote	§ 721.133

12. During the December 2015 inspection, the Illinois EPA learned that each of the above shipments of the hazardous Subject Waste were picked up and transported by Respondent in leased van box trailers that were not enumerated in Respondent's Permit.

13. At the time of the December 2015 inspection by the Illinois EPA, Respondent had failed to conduct inspections of the areas of the Facility where it was storing the hazardous Subject Waste. During the December 2015 inspection, the Illinois EPA observed the following conditions at the Facility:

- a. damaged boxes containing the hazardous Subject Waste, including one with a corner torn off and one that was partially collapsed;
- b. an open fiber box containing hazardous Subject Waste;
- c. a fiber box containing hazardous Subject Waste positioned on its side;
- d. none of the five trailers storing the hazardous Subject Waste had aisle space within them;
- e. a strong odor inside one of the trailers storing the hazardous Subject Waste; and
- f. several drums and boxes containing the hazardous Subject Waste did not have labels and/or accumulation start dates.

14. At the time of the December 2015 inspection, the Illinois EPA inspected records maintained by Respondent at the Facility and found the following:

- a. Respondent failed to conduct weekly inspections of areas where the hazardous Subject Waste was stored to look for leaking or deteriorated containers;
- b. Respondent did not have a written closure plan for the hazardous Subject Waste management units at the Facility;
- c. Respondent did not have a detailed written estimate of the cost of closing the Facility; and

- d. Respondent did not have financial assurance documentation for the closure of the Facility.

15. Sections 21(e), 21(g)(2), and 21(j) of the Act, 415 ILCS 5/21(e), (g)(2), and (j) (2016), provide, in pertinent part:

No person shall:

- (e) Dispose, 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.
- (g) Conduct any hazardous waste-transportation operation:
 - (2) in violation of any regulations or standards adopted by the Board under this Act.
- (j) Conduct any special waste transportation operation in violation of any regulations, standards or permit requirements adopted by the Board under this Act.

16. Section 723.121(a) of the Board Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 723.121(a), provides:

- (a) The transporter must deliver the entire quantity of hazardous waste which he has accepted from a generator or a transporter to:
 - (1) The designated facility listed on the manifest; or
 - (2) The alternate designated facility, if the hazardous waste cannot be delivered to the designated facility because an emergency prevents delivery; or
 - (3) The next designated transporter; or
 - (4) The place outside the United States designated by the generator.

17. Standard Condition 3 of Respondent's Special Waste Hauling Permit provides:

There may not be any deviation from the approved permit and all conditions thereof, and no special waste hauling may be conducted in any vehicles, tanks or other equipment that are not enumerated in the application for permit, unless a written request for modification is submitted to the Agency, and a written approval of such proposed modification is issued.

18. Standard Condition 8 of Respondent's Special Waste Hauling Permit provides:

All special waste loading, hauling and unloading must be conducted in a safe and environmentally sound manner and in accordance with all applicable State and Federal laws and regulations.

19. Standard Condition 13 of Respondent's Special Waste Hauling Permit provides:

The permittee(s) shall not deliver any special waste for disposal, storage, or treatment except to a site or facility which has been designated by the deliverer of the special waste and which site or facility has a permit to accept such waste for disposal, storage, or treatment, as well as all applicable permits as required by the Environmental Protection Act and rules adopted thereunder by the Illinois Pollution Control Board.

20. Section 3.315 of the Act, 415 ILCS 5/3.315 (2016), provides the following definition:

"Person" is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

21. Section 3.220 of the Act, 415 ILCS 5/3.220 (2016), provides the following definition:

"Hazardous waste" means a waste, or combination of wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an

increase in serious, irreversible, or incapacitating reversible, illness; or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed, and which has been identified, by characteristics or listing, as hazardous pursuant to Section 3001 of the Resource Conservation and Recovery Act of 1976, P.L. 94-580, or pursuant to Board regulations. Potentially infectious medical waste is not a hazardous waste, except for those potentially infectious medical wastes identified by characteristics or listing as hazardous under Section 3001 of the Resource Conservation and Recovery Act of 1976, P.L. 94-580, or pursuant to Board regulations.

22. Section 3.475 of the Act, 415 ILCS 5/3.475 (2016), provides the following definition, in pertinent part:

“Special waste” means any of the following:

* * *

(b) hazardous waste, as determined in conformance with RCRA hazardous waste determination requirements set forth in Section 722.111 of Title 35 of the Illinois Administrative Code, including a residue from burning or processing hazardous waste in a boiler or industrial furnace unless the residue has been tested in accordance with Section 726.212 of Title 35 of the Illinois Administrative Code and proven to be nonhazardous

* * *

23. Section 3.205 of the Act, 415 ILCS 5/3.205 (2016), provides the following definition:

“Generator” means anyone whose act or process produces waste.

24. Section 720.110 of the Board Hazardous Waste Operating Regulations, 35 Ill.

Adm. Code 720.110, provides the following definitions:

“Transportation” means the movement of hazardous waste by air, rail, highway, or water.

“Transporter” means a person engaged in the off-site transportation of hazardous waste by air, rail, highway, or water.

25. Respondent is a “person” as that term is defined by Section 3.315 of the Act, 415 ILCS 5/3.315 (2016).

26. The Subject Waste is “hazardous waste” as that term is defined by Section 3.220 of the Act, 415 ILCS 5/3.220 (2016).

27. Some of the Subject Waste is “special waste” as that term is defined by Section 3.475 of the Act, 415 ILCS 5/3.475 (2016).

28. Respondent is a “transporter” as that term is defined by Section 720.110 of the Board Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 720.110.

29. Velocity Services LLC is a “generator” as that term is defined by Section 3.205 of the Act, 415 ILCS 5/3.205 (2016).

30. By failing to deliver shipments of the hazardous Subject Waste from a generator to the designated facility listed on the shipment’s manifest or other authorized destination, Respondent violated Section 723.121(a) of the Board Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 723.121(a), and, thereby, Sections 21(e) and 21(g)(2) of the Act, 415 ILCS 5/21(e) and (g)(2) (2016).

31. By storing shipments of special waste at the Facility, which was not the designated recipient and was not permitted for such storage, Respondent violated Standard

Condition 13 of Respondent's Permit, and, thereby, Section 21(j) of the Act, 415 ILCS 5/21(j) (2016).

32. By conducting special waste hauling in vehicles not enumerated in Respondent's Permit, and without requesting a modification of the permit, Respondent violated Standard Condition 3 of Respondent's Permit, and, thereby, Section 21(j) of the Act, 415 ILCS 5/21(j) (2016).

33. By conducting special waste hauling in violation of the Act and Board regulations, Respondent violated Special Condition 8 of Respondent's Permit, and, thereby, Section 21(j) of the Act, 415 ILCS 5/21(j) (2016).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, SE TRANSPORT, INC., as follows:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated Sections 21(e), (g)(2), and (j) of the Act, 415 ILCS 5/21(e), (g)(2), and (j) (2016), and Section 723.121(a) of the Board Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 723.121(a);
3. Ordering the Respondent to cease and desist from any further violations of Sections 21(e), (g)(2), and (j) of the Act, 415 ILCS 5/21(e), (g)(2), and (j) (2016), and Section 723.121(a) of the Board Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 723.121(a);
4. Assessing against the Respondent a civil penalty of fifty thousand dollars (\$50,000.00) for each and every violation and an additional penalty of ten thousand dollars (\$10,000) for each day during which each violation continued of Sections 21(e) and 21(j), 415

ILCS 5/21(e) and (j) (2016), and Section 723.121(a) of the Board Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 723.121(a);

5. Assessing against the Respondent a civil penalty of twenty-five thousand dollars (\$25,000) for each day during which each violation continued of Section 21(g)(2) of the Act, 415 ILCS 5/21(g)(2), and Section 723.121(a) of the Board Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 723.121(a);

6. Ordering the Respondent, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2016), to pay all costs expended by the State in its pursuit of this action, including attorney, expert witness, and consultant fees;

7. Granting such other relief as the Board deems appropriate and just.

COUNT II

OPERATING HAZARDOUS WASTE STORAGE WITHOUT A RCRA PERMIT

1–28. Complainant realleges and incorporates by reference herein paragraphs 1 through 28 of Count I as paragraphs 1 through 28 of this Count II.

29. Sections 21(f)(1) and (2) of the Act, 415 ILCS 5/21(f)(1) and (2)(2016), provides:

No person shall:

- (f) Conduct any hazardous waste-storage, hazardous waste-treatment or hazardous waste-disposal operation:
 - (1) without a RCRA permit for the site issued by the Agency under subsection (d) of Section 39 of this Act, or in violation of any condition 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

- (2) in violation of any regulations or standards adopted by the Board under this Act;

30. Section 723.112 of the Board Hazardous Waste Operating Regulations, 35 Ill.

Adm. Code 723.112, provides:

A transporter who stores manifested shipments of hazardous waste in containers meeting the requirements of 35 Ill. Adm. Code 722.130 at a transfer facility for a period of ten days or less is not subject to regulations under 35 Ill. Adm. Code 702, 703, 724, 725, 727, or 728 with respect to the storage of those wastes.

31. By storing manifested shipments of the hazardous Subject Waste at its Facility for a period greater than ten days, Respondent is subject to regulations under Parts 702, 703, 724, 725, 727, and 728 of the Board Hazardous Waste Operating Regulations with respect to the storage of those wastes, according to Section 723.112 of the Board Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 723.112.

32. Section 703.121(a) and (b) of the Board RCRA Permit Program Regulations, 35 Ill. Adm. Code 703.121(a) and (b), provides, in pertinent part:

- (a) No person may conduct any hazardous waste storage, hazardous waste treatment, or hazardous waste disposal operation as follows:
 - (1) Without a RCRA permit for the HWM (hazardous waste management) facility
- (b) An owner or operator of a HWM unit must have permits during the active life (including the closure period) of the unit.

33. Section 720.110 of the Board Hazardous Waste Operating Regulations, 35 Ill.

Adm. Code 720.110, provides the following definition:

“Facility” means the following:

All contiguous land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste or for managing hazardous secondary materials prior to reclamation. A facility may consist of several treatment, storage, or disposal operational units (e.g., one or more landfills, surface impoundments, or combinations of them).

“Storage” means the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.

“Transfer facility” means any transportation-related facility, including loading docks, parking areas, storage areas, and other similar areas where shipments of hazardous waste or hazardous secondary materials are held during the normal course of transportation.

“Hazardous waste management unit” is a contiguous area of land on or in which hazardous waste is placed, or the largest area in which there is significant likelihood of mixing hazardous waste constituents in the same area. Examples of hazardous waste management units include a surface impoundment, a waste pile, a land treatment area, a landfill cell, an incinerator, a tank and its associated piping and underlying containment system, and a container storage area. A container alone does not constitute a unit; the unit includes containers, and the land or pad upon which they are placed.

“Management” or “hazardous waste management” means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous waste.

34. The Facility is a “facility” and a “transfer facility” and a “hazardous waste management unit” (or “HWM unit”) as those terms are defined by Section 720.110 of the Board Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 720.110.

35. Respondent's collection, storage, transportation, and disposal of the hazardous Subject Waste at the Facility is "management" and "hazardous waste management" as those terms are defined by Section 720.110 of The Board Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 720.110.

36. By conducting a hazardous waste storage operation and HWM unit at the Facility without a RCRA permit, Respondent violated Sections 703.121(a) and (b) of the Board Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 703.121(a) and (b), and, thereby, violated Sections 21(e) and (f)(1) and (2) of the Act, 415 ILCS 5/21(e) and (f)(1) and (2)(2016).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, SE TRANSPORT, INC., as follows:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated Sections 21(e) and (f)(1) and (2) of the Act, 415 ILCS 5/21(e) and (f)(1) and (2) (2016), and Sections 703.121(a) and (b) of the Board Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 703.121(a) and (b);
3. Ordering the Respondent to cease and desist from any further violations of Sections 21(e) and (f)(1) and (2) of the Act, 415 ILCS 5/21(e) and (f)(1) and (2) (2016), and Sections 703.121(a) and (b) of the Board Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 703.121(a) and (b);
4. Assessing against the Respondent a civil penalty of fifty thousand dollars (\$50,000.00) for each and every violation and an additional penalty of ten thousand dollars (\$10,000) for each day during which each violation continued of Section 21(e), 415 ILCS 5/21(e)

(2016), and Sections 703.121(a) and (b) of the Board Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 703.121(a) and (b);

5. Assessing against the Respondent a civil penalty of twenty-five thousand dollars (\$25,000) for each day during which each violation continued of Sections 21 (f)(1) and (2) of the Act, 415 ILCS 5/21(f)(1) and (2) and Sections 703.121(a) and (b) of the Board Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 703.121(a) and (b);

6. Ordering the Respondent, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2016), to pay all costs expended by the State in its pursuit of this action, including attorney, expert witness, and consultant fees;

7. Granting such other relief as the Board deems appropriate and just.

COUNT III

HAZARDOUS WASTE STORAGE OPERATOR VIOLATIONS

1–34. Complainant realleges and incorporates by reference herein paragraphs 1 through 28 of Count I, and paragraphs 29 through 31, 33 through 35 of Count II as paragraphs 1 through 34 of this Count III.

35. Section 725.115(a) of the Board Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 725.115(a), provides:

- (a) The owner or operator must inspect the facility for malfunctions and deterioration, operator errors and discharges that may be causing - or which may lead to - the conditions listed below. The owner or operator must conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment.
 - (1) Release of hazardous waste constituents to the environment, or
 - (2) A threat to human health.

36. Section 725.131 of the Board Hazardous Waste Operating Regulations, 35 Ill.

Adm. Code 725.131, provides:

Facilities must be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water that could threaten human health or the environment.

37. Section 725.135 of the Board Hazardous Waste Operating Regulations, 35 Ill.

Adm. Code 725.135, provides:

The owner or operator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

38. Section 725.271 of the Board Hazardous Waste Operating Regulations, 35 Ill.

Adm. Code 725.271, provides:

If a container holding hazardous waste is not in good condition or if it begins to leak, the owner or operator must transfer the hazardous waste from this container to a container that is in good condition or manage the waste in some other way that it complies with the requirements of this Part.

39. Section 725.273(a) of the Board Hazardous Waste Operating Regulations, 35 Ill.

Adm. Code 725.273(a), provides:

- (a) A container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.

40. Section 725.274 of the Board Hazardous Waste Operating Regulations, 35 Ill.

Adm. Code 725.274, provides:

At least weekly, the owner or operator must inspect areas where containers are stored. The owner or operator must

look for leaking containers and for deterioration of containers caused by corrosion or other factors.

41. Section 728.150(a) of the Board Hazardous Waste Operating Regulations, 35 Ill.

Adm. Code 728.150(a), provides, in pertinent part:

(a) Except as provided in this Section, the storage of hazardous wastes restricted from land disposal under Subpart C of this Part is prohibited, unless the following conditions are met:

* * *

(2) An owner or operator of a hazardous waste treatment, storage, or disposal facility stores such wastes in tanks, containers, or containment buildings solely for the purpose of the accumulation of such quantities of hazardous waste as necessary to facilitate proper recovery, treatment, or disposal and each of the following conditions are fulfilled:

(A) Each container is clearly marked to identify its contents and the date each period of accumulation begins; and

(B) Each tank is clearly marked with a description of its contents, the quantity of each hazardous waste received and the date each period of accumulation begins, or such information is recorded and maintained in the operating record at the facility. Regardless of whether the tank itself is marked, the owner and operator must comply with the operating record requirements of 35 Ill. Adm. Code 724.173 or 725.173.

42. By failing to conduct inspections of the areas of the Facility where the hazardous Subject Waste was being stored, Respondent violated Section 725.115(a) of the Board Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 725.115(a), and, thereby, Sections 21(e) and (f)(2) of the Act, 415 ILCS 5/21(e) and (f)(2) (2016).

43. By failing to maintain the Facility so as to minimize the possibility of an unplanned release of the hazardous Subject Waste or the hazardous Subject Waste constituents, Respondent violated Section 725.131 of the Board Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 725.131, and, thereby, Sections 21(e) and (f)(2) of the Act, 415 ILCS 5/21(e) and (f)(2) (2016).

44. By failing to maintain aisle space in trailers where the hazardous Subject Waste was being stored, Respondent violated Section 725.135 of the Board Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 725.135, and, thereby, Sections 21(e) and (f)(2) of the Act, 415 ILCS 5/21(e) and (f)(2) (2016).

45. By failing to transfer the hazardous Subject Waste from containers that were in poor condition to containers that were in good condition, Respondent violated Section 725.271 of the Board Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 725.271, and, thereby, Sections 21(e) and (f)(2) of the Act, 415 ILCS 5/21(e) and (f)(2) (2016).

46. By storing the hazardous Subject Waste at the Facility in a container that was not closed, Respondent violated Section 725.273(a) of the Board Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 725.273(a), and, thereby, Sections 21(e) and (f)(2) of the Act, 415 ILCS 5/21(e) and (f)(2) (2016).

47. By failing to conduct weekly inspections of areas where the hazardous Subject Waste was being stored to look for leaking or deteriorated containers, Respondent violated Section 725.274 of the Board Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 725.274, and, thereby, Sections 21(e) and (f)(2) of the Act, 415 ILCS 5/21(e) and (f)(2) (2016).

48. By storing the hazardous Subject Waste in drums and boxes that did not have labels and/or accumulation start dates on the container, Respondent violated Section 728.150(a)

of the Board Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 728.150(a), and, thereby, Sections 21(e) and (f)(2) of the Act, 415 ILCS 5/21(e) and (f)(2) (2016).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, SE TRANSPORT, INC., as follows:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated Sections 21(e) and 21(f)(2) of the Act, 415 ILCS 5/21(e) and (f)(2) (2016), and Sections 725.115(a), 725.131, 725.135, 725.271, 725.273(a), 725.274, and 728.150(a) of the Board Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 725.115(a), 725.131, 725.135, 725.271, 725.273(a), 725.274, and 728.150(a);
3. Ordering the Respondent to cease and desist from any further violations of Sections 21(e) and (f)(2) of the Act, 415 ILCS 5/21(e) and (f)(2) (2016), and Sections 725.115(a), 725.131, 725.135, 725.271, 725.273(a), 725.274, and 728.150(a) of the Board Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 725.115(a), 725.131, 725.135, 725.271, 725.273(a), 725.274, and 728.150(a);
4. Assessing against the Respondent a civil penalty of fifty thousand dollars (\$50,000.00) for each and every violation and an additional penalty of ten thousand dollars (\$10,000) for each day during which each violation continued of Section 21(e) of the Act, 415 ILCS 5/21(e) (2016), and Sections 725.115(a), 725.131, 725.135, 725.271, 725.273(a), 725.274, and 728.150(a) of the Board Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 725.115(a), 725.131, 725.135, 725.271, 725.273(a), 725.274, and 728.150(a);

5. Assessing against the Respondent a civil penalty of twenty-five thousand dollars (\$25,000) for each day during which each violation continued of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2016 and Sections 725.115(a), 725.131, 725.135, 725.271, 725.273(a), 725.274, and 728.150(a) of the Board Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 725.115(a), 725.131, 725.135, 725.271, 725.273(a), 725.274, and 728.150(a);

6. Ordering the Respondent, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2016), to pay all costs expended by the State in its pursuit of this action, including attorney, expert witness, and consultant fees; and

7. Granting such other relief as the Board deems appropriate and just.

COUNT IV

HAZARDOUS WASTE STORAGE CLOSURE VIOLATIONS

1–34. Complainant realleges and incorporates by reference herein paragraphs 1 through 28 of Count I, and paragraphs 29 through 31, 33 through 35 of Count II as paragraphs 1 through 34 of this Count IV.

35. Section 725.212(a) of the Board Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 725.212(a), provides:

- (a) Written plan. Within six months after the effective date of the rule that first subjects a facility to provisions of this Section, the owner or operator of a hazardous waste management facility must have a written closure plan. Until final closure is completed and certified in accordance with Section 725.215, a copy of the most current plan must be furnished to the Agency upon request including request by mail. In addition, for facilities without approved plans, it must also be provided during site inspections on the day of inspection to any officer, employee, or representative of the Agency.

36. Section 725.242(a) of the Board Hazardous Waste Operating Regulations, 35 Ill.

Adm. Code 725.242(a), provides:

- (a) The owner or operator must have a detailed written estimate, in current dollars, of the cost of closing the facility in accordance with the requirements in Sections 725.211 through 725.215 and applicable closure requirements of Sections 725.297, 725.328, 725.358, 725.380, 725.410, 725.451, 725.481, 725.504, and 725.1102.
 - (1) The estimate must equal the cost of final closure at the point in the facility's active life when the extent and manner of its operation would make closure the most expensive, as indicated by its closure plan (see Section 725.212(b)); and
 - (2) The closure cost estimate must be based on the costs to the owner or operator of hiring a third party to close the facility. A third party is a party that is neither a parent nor a subsidiary of the owner or operator. (See definition of "parent corporation" in Section 725.241(d).) The owner or operator may use costs for on-site disposal if the owner or operator demonstrates that on-site disposal capacity will exist at all times over the life of the facility.
 - (3) The closure cost estimate must not incorporate any salvage value that may be realized by the sale of hazardous wastes, or non-hazardous wastes if permitted by the Agency pursuant to Section 725.213(d), facility structures or equipment, land or other facility assets at the time of partial or final closure.
 - (4) The owner or operator must not incorporate a zero cost for hazardous waste, or non-hazardous waste if permitted by the Agency pursuant to Section 725.213(d), that may have economic value.

37. Section 725.243 of the Board Hazardous Waste Operating Regulations, 35 Ill.

Adm. Code 725.243, provides, in pertinent part:

An owner or operator of each facility must establish financial assurance for closure of the facility.

38. By failing to maintain a written closure plan for the Facility, Respondent violated Section 725.212(a) of the Board Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 725.212(a), and, thereby, Sections 21(e) and (f)(2) of the Act, 415 ILCS 5/21(e) and (f)(2) (2016).

39. By failing to maintain a detailed written estimate of the cost of closing the Facility, Respondent violated Section 725.242(a) Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 725.242(a), and, thereby, Sections 21(e) and (f)(2) of the Act, 415 ILCS 5/21(e) and (f)(2) (2016).

40. By failing to maintain financial assurance documentation for the closure of the Facility, Respondent violated Section 725.243 of the Board Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 725.243, and, thereby, Sections 21(e) and (f)(2) of the Act, 415 ILCS 5/21(e) and (f)(2) (2016).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, SE TRANSPORT, INC., as follows:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated Sections 21(e) and (f)(2) of the Act, 415 ILCS 5/21(e) and (f)(2) (2016), and Sections 725.212(a), 725.242(a), and 725.243 of the Board

Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 725.212(a), 725.242(a), and 725.243;

3. Ordering the Respondent to cease and desist from any further violations of Sections 21(e) and (f)(2) of the Act, 415 ILCS 5/21(e) and (f)(2) (2016), and Sections 725.212(a), 725.242(a), and 725.243 of the Board Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 725.212(a), 725.242(a), and 725.243;

4. Assessing against the Respondent a civil penalty of fifty thousand dollars (\$50,000.00) for each violation and an additional penalty of ten thousand dollars (\$10,000) for each day during which each violation continued of Section 21(e) of the Act, 415 ILCS 5/21(e), and Sections 725.212(a), 725.242(a), and 725.243 of the Board Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 725.212(a), 725.242(a), and 725.243;

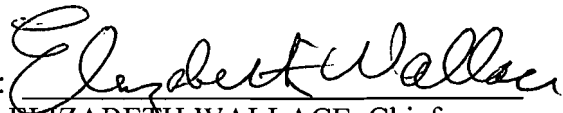
5. Assessing against the Respondent a civil penalty of twenty-five thousand dollars (\$25,000) for each day during which each violation continued of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2016), and Sections 725.212(a), 725.242(a), and 725.243 of the Board Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 725.212(a), 725.242(a), and 725.243;

6. Ordering the Respondent, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2016), to pay all costs expended by the State in its pursuit of this action, including attorney, expert witness, and consultant fees; and

7. Granting such other relief as the Board deems appropriate and just.

PEOPLE OF THE STATE OF ILLINOIS,
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