

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

<b>PEOPLE OF THE STATE OF ILLINOIS,</b>	)	
	)	
<b>Complainant,</b>	)	
	)	
<b>v.</b>	)	<b>PCB NO.</b>
	)	<b>(Enforcement - Land, Water)</b>
	)	
<b>DONLEY TRUCKING, INC.,</b>	)	
<b>an Illinois Corporation,</b>	)	
	)	
<b>Respondent.</b>	)	

**NOTICE OF ELECTRONIC FILING**

To: See Attached Service List

PLEASE TAKE NOTICE that on August 2, 2013, I electronically filed with the Clerk of the Pollution Control Board of the State of Illinois, c/o John T. Therriault, Assistant Clerk, James R. Thompson Center, 100 W. Randolph St., Ste. 11-500, Chicago, IL 60601 a COMPLAINT and ENTRY OF APPEARANCE, copies of which are attached hereto and herewith served upon you. Failure to file an answer to this Complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in this 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.

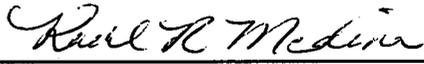
FURTHER, please take notice that financing may be available, through the Illinois Environmental Facilities Financing Act, 20 ILCS 3515/1 (2010), to correct the pollution alleged in the Complaint filed in this case.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN,  
Attorney General of the  
State of Illinois

MATTHEW J. DUNN, Chief  
Environmental Enforcement/Asbestos  
Litigation Division

BY: 

RACHEL R. MEDINA  
Assistant Attorney General  
Environmental Bureau

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: August 2, 2013

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, )  
 )  
 Complainant, )  
 )  
 vs. )  
 )  
 DONLEY TRUCKING, INC., )  
 an Illinois Corporation, )  
 )  
 Respondent. )

PCB No.  
(Enforcement - Land, Water)

ENTRY OF APPEARANCE

On behalf of the Complainant, PEOPLE OF THE STATE OF ILLINOIS, RACHEL R. MEDINA, Assistant Attorney General of the State of Illinois, hereby enters her appearance as attorney of record.

Respectfully submitted,

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

MATTHEW J. DUNN, Chief  
Environmental Enforcement/Asbestos  
Litigation Division

BY: *Rachel R. Medina*  
RACHEL R. MEDINA  
Environmental Bureau  
Assistant Attorney General

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4. Donley operates approximately 30 semi-trucks in its trucking business, which hauls soil, rock, asphalt, recycled material, fertilizer, and coal.

5. The site includes a repair shop ("repair shop") which services and maintains the semi-trucks.

6. The site also has a concrete wash pad ("wash pad") south of the repair shop and office. The wash pad is bisected with a metal grate which covers a concrete trench. The concrete trench is approximately 30 feet long, four feet wide, and four feet deep. The concrete trench collects water, dirt and gravel from truck washing.

7. Donley washes its semi-truck cabs and trailers at the wash pad with a solution of water and ZEP powdered car wash detergent utilizing a power spray unit.

8. Approximately 1 yard east of the wash pad is a roadside ditch along the frontage road.

9. On December 30, 2010, the Illinois EPA conducted an inspection of the site. On that date, soil between the wash pad and the adjacent roadside ditch was stained indicating that waste water from truck washing is allowed to overflow the wash pad into the roadside ditch. The concrete trench had approximately one foot of freeboard.

10. On September 13, 2012, the Illinois EPA conducted an inspection of the site. On that date, a six-inch PVC pipe which permits overflow from the concrete trench to discharge to the adjacent roadside ditch was located adjacent to the wash pad.

11. Section 12(f) of the Act, 415 ILCS 5/12(a)(2010), provides as follows:

No person shall:

- a. Cause, threaten or allow the discharge of any contaminant into the waters of the State...or from any point source within the State, without an NPDES permit for point source discharges issued by the Agency under Section 39(b) of this Act, or in violation of any term or condition imposed by such permit, or in violation of any NPDES permit filing requirement established under Section 39(b), or in violation of any regulations adopted by the Board or of any order adopted by the Board with respect to the NPDES program.

\* \* \*

12. Sec. 3.165 of the Act, ILCS 5/3.165 (2010), defines "Contaminant" as follows:

"Contaminant" is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

13. Wastewater, grit, gravel and various materials generated from the washing of the semi-trucks are contaminants as defined under Section 3.165 of the Act, ILCS 5/3.165 (2010).

14. The six-inch PVC discharge pipe installed between the concrete wash pad and the adjacent roadside ditch is a point source.

15. By causing, threatening or allowing the discharge of any contaminant from a six-inch PVC pipe without an NPDES permit for point source discharges, DONLEY has violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2010).

#### **PRAYER FOR RELIEF**

WHEREFORE, Complainant, the People of the State of Illinois, respectfully request that the Board enter an order against the Respondent:

A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;

B. Finding that the Respondent has violated the Act as alleged herein;

C. Ordering the Respondent to cease and desist from any further violations of the Act including, but not limited to, enjoining the Respondent from use of detergent in truck wash water and washing the interior of trucks; and, requiring the Respondent to obtain the necessary permits for truck wash waste water storage or treatment of waste water;

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010), imposing a civil penalty of not more than the statutory maximum; and

E. Granting such other relief as the Board may deem appropriate.

#### **COUNT II** **FAILURE TO CHARACTERIZE WASTE**

1-6. Complainant realleges and incorporates by reference herein paragraphs 1 through 6 of Count I as paragraphs 1 through 6 of this Count II.

7. Floor drains in the site's repair shop discharge to an oil/water separator.

8. On February 14, 2010, DONLEY allowed Illini Septic & Sewer, 1012 Lenhart Road, Springfield, IL ("Illini"), to collect the oil/water separator waste which had accumulated in the oil/water separator for disposal without providing a manifest to Illini for the waste.

9. On December 30, 2010, Illinois EPA inspected the site. On that date, Illinois EPA inspector spoke with Todd Donley. Mr. Donley stated that he purchases approximately 24 fluorescent light bulbs per year and disposes of them with the general refuse.

10. Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2010), provides as follows:

No person shall:

\* \* \*

(d) Conduct any waste-storage, waste-treatment, or waste-disposal operation:

\* \* \*

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

\* \* \*

11. Section 721.102(a) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 721.102(a), defines "solid waste" as any discarded material and defines "discarded material" as any material that is abandoned.

12. Section 721.102(b) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 721.102(b), provides as follows:

A material is a solid waste if it is abandoned in one of the following ways:

- 1) It is disposed of;
- 2) It is burned or incinerated; or
- 3) It is accumulated, stored, or treated (but not recycled) before or in lieu of being abandoned by being disposed of, burned, or incinerated.

13. The spent fluorescent bulbs that have been thrown away with the general refuse are solid wastes, pursuant to 35 Ill. Adm. Code 721.102, because such materials have been discarded and abandoned.

14. The oil/water separator waste accumulated by DONLEY in the oil/water separator and sent for disposal to Illini is solid waste, pursuant to 35 Ill. Adm. Code 721.102, because the oil/water separator waste has been either accumulated, stored or disposed of.

15. Section 722.111 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 722.111, provides as follows:

A person that generates a solid waste, as defined in 35 Ill. Adm. Code 721.102, must determine if that waste is a hazardous waste....

\* \* \*

16. Section 808.121(a) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(a), provides as follows:

Each person who generates waste shall determine whether the waste is a special waste.

17. The Respondent has failed to determine whether any of the spent fluorescent bulbs or oil/water separator waste generated at the site is a hazardous waste or a 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.

18. By failing to make the waste determinations required by Sections 722.111 and 808.121 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 722.111 and 808.121, DONLEY has violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2010).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, the People of the State of Illinois, respectfully request that the Board enter an order against the Respondent:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that the Respondent has violated the Act as alleged herein;
- C. Ordering the Respondent to cease and desist from any further violations of the Act, including, but not limited to, requiring the Respondent to implement procedures for proper

management and disposal of oil/water separator waste and properly store and recycle spent fluorescent light bulbs containing mercury;

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010), imposing a civil penalty of not more than the statutory maximum; and

E. Granting such other relief as the Board may deem appropriate.

**COUNT III**  
**FAILURE TO PREPARE/PROVIDE A MANIFEST**

1-18. Complainant realleges and incorporates by reference herein paragraphs 1 through 18 of Count II as paragraphs 1 through 18 of this Count III.

19. At all times relevant to the Complaint, Illini was not registered with Illinois EPA as a special waste hauler.

20. Section 808.121(b) of the Board's Waste Disposal Regulations, 35 Ill. Adm Code 808.121, provides, in pertinent part, as follows:

(b) No person shall deliver special waste to a transporter unless the waste is accompanied by a manifest as specified in Section 808.122, and the transporter has a special waste hauling permit issued pursuant to 35 Ill. Adm. Code 809. ....The following are exceptions to this prohibition:

\* \* \*

21. Section 808.122 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 808.122, provides, in pertinent part, as follows:

Except as otherwise provided by Section 808.121(b), the generator of any special waste shall prepare a manifest, as prescribed by 35 Ill. Adm. Code 809.501, prior to shipment.

22. Section 809.301 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 809.301, provides, in pertinent part, as follows:

No person may deliver any special waste generated within Illinois or for disposal, storage or treatment within Illinois unless that person concurrently delivers a manifest completed in accordance with Subpart E of this Part to a special waste transporter who holds a current nonhazardous special waste hauling permit or Uniform Program Registration and Permit issued by the Agency under Subpart B or C of this Part. ...

23. Section 808.110 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 808.110, provides, in pertinent part, as follows:

\* \* \*

"Special waste" means any hazardous waste, and any industrial process waste or pollution control waste which has not been declassified pursuant to Section 808.245.

\* \* \*

24. The oil/water separator waste is an industrial process waste and therefore a special waste as defined under Section 808.110 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 808.110.

25. By failing to prepare a manifest prior to shipment of the oil/water separator waste, DONLEY violated Section 808.122 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 808.122.

26. By delivering the oil/water separator waste to Illini, an unlicensed special waste hauler, without a manifest, DONLEY violated Sections 808.121(b) and 809.301 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(b) and 809.301.

27. By delivering the oil/water separator waste to Illini for disposal without a manifest, in violation of Sections 808.121(b), 808.122, and 809.301 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(b), 808.122, and 809.301, DONLEY violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2010).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, the People of the State of Illinois, respectfully request that the Board enter an order against the Respondent:

A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;

B. Finding that the Respondent has violated the Act as alleged herein;

C. Ordering the Respondent to cease and desist from any further violations of the Act, including, but not limited to requiring the Respondent to implement procedures for proper management and disposal of oil/water separator waste;

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010), imposing a civil penalty of not more than the statutory maximum; and

E. Granting such other relief as the Board may deem appropriate.

**COUNT IV**  
**WASTE DISPOSAL VIOLATION**

1-17. Complainant realleges and incorporates by reference herein paragraphs 1 through 12 of Count I, paragraphs 7 through 9 of Count II, and paragraphs 19 and 24 of Count III, as paragraphs 1 through 17 of this Count IV.

18. The site is not a sanitary landfill.

19. Section 21(e) of the Act, 415 ILCS 5/21(e) (2010), provides as follows:

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.

20. By disposing of the wash water, oily residue and various materials, including, but not limited to soil, rock, asphalt, recycled materials, fertilizer, and coal, generated from the washing of semi-trucks at the wash pad, onto the adjacent soils, Donley violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2010).

21. By disposing of oil/water separator waste with Illini, Donley violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2010).

22. By disposing of fluorescent bulbs in the general refuse at the site, Donley violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2010).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, the People of the State of Illinois, respectfully request that the Board enter an order against the Respondent:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that the Respondent has violated the Act as alleged herein;
- C. Ordering the Respondent to cease and desist from any further violations of the Act, including, but not limited to, requiring the Respondent to implement procedures for proper management and disposal of oil/water separator waste and properly store and recycle spent fluorescent light bulbs containing mercury;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010), imposing a civil penalty of not more than the statutory maximum; and
- E. Granting such other relief as the Board may deem appropriate.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,  
*ex rel.* LISA MADIGAN,  
Attorney General  
of the State of Illinois

MATTHEW J. DUNN, Chief  
Environmental Enforcement/Asbestos  
Litigation Division

BY: \_\_\_\_\_

THOMAS DAVIS, Chief  
Environmental Bureau  
Assistant Attorney General

Of Counsel

RACHEL R. MEDINA

#6297171

500 South Second Street

Springfield, Illinois 62706

217/782-9031

Dated: 8/02/13

**CERTIFICATE OF SERVICE**

I hereby certify that I did on August 2, 2013, cause to be served by Certified Mail, Return Receipt Requested, with postage thereon fully prepaid, by depositing in a United States Post Office Box in Springfield, Illinois, a true and correct copy of the following instruments entitled NOTICE OF ELECTRONIC FILING, ENTRY OF APPEARANCE and COMPLAINT upon the persons listed on the Service List.



RACHEL MEDINA  
Assistant Attorney General

This filing is submitted on recycled paper.

**SERVICE LIST**

Gail F. Newingham  
Registered Agent for Donley Trucking, Inc.  
P.O. Box 13  
I-55 Frontage Road South  
Williamsville, IL 62693

Todd Donley  
Vice President  
Donley Trucking, Inc.  
8998 W. Outer Road  
Williamsville, IL 62693