

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
by KWAME RAOUL, Attorney General)	
of the State of Illinois,)	
)	
Complainant,)	
)	
v.)	PCB 21-
)	(Enforcement – Water-NPDES)
KNESS TRUCKING, INC., an 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 Pollution Control Board by electronic filing the following Complaint for Civil Penalties, Stipulation and Proposal for Settlement, and Motion for Relief from Hearing Requirement, copies of which are attached and hereby served upon you.

KWAME RAOUL
Attorney General
State of Illinois

Nancy J. Tikalsky
Nancy J. Tikalsky
Assistant Attorney General

Dated: April 30, 2020

Nancy J. Tikalsky
Assistant Attorney General
Environmental Bureau
Illinois Attorney General’s Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602
(312) 566-7348
ARDC 6273159
Nancy.Tikalsky@illinois.gov

THIS FILING IS SUBMITTED ON RECYCLED PAPER

Service List

Scott Kness
Marilyn Selman
Kness Trucking, Inc.
113 West 3rd Street
Chadwick, IL 61014
marilyn.kness1@frontiernet.net

CERTIFICATE OF SERVICE

I, Nancy J. Tikalsky, an Assistant Attorney General, certify that on the 30th day of April 2021, I caused to be served by U.S. Certified Mail (return receipt requested), the foregoing Complaint, Stipulation and Proposal for Settlement, Motion for Relief from Hearing Requirement and Notice of Filing 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.

BY: Nancy J. Tikalsky
Nancy J. Tikalsky
Assistant Attorney General
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COMPLAINT FOR CIVIL PENALTIES

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, on his own motion and at the request of the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, complains of Respondent, KNESS TRUCKING, INC., an Illinois corporation, as follows:

COUNT I

VIOLATIONS OF GENERAL STORM WATER PERMIT

1. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, on his own motion and at the request of the Illinois Environmental Protection Agency (“Illinois EPA”), against KNESS TRUCKING, INC. (“Kness”), pursuant to Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2020).

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 (2020), and charged, *inter alia*, with the duty of enforcing the Act. The Illinois EPA is further charged with the duty to abate violations of

the general National Pollution Discharge Elimination System (“NPDES”) permit program under the Federal Clean Water Act (“CWA”), 33 U.S.C. § 1342(b)(7).

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 (2020), and charged, *inter alia*, with the duty of promulgating standards and regulations under the Act.

4. Respondent, Kness, is an Illinois corporation registered and in good standing with the Illinois Secretary of State’s Office.

5. At all times relevant to this complaint, Kness owned and operated a freight shipping and hauling transportation service located at 113 West Third Street, Chadwick, Carroll County, Illinois (“Site”). Kness transports general freight, livestock and refrigerated food among other commodities. In addition, Kness stores and maintains transport vehicles, which generate automotive fluids, and stores livestock manure, tires, used oil and petroleum at the Site.

6. Storm water from the Site discharges into an unnamed tributary then into Rock Creek, which in turn flows to the Rock River.

7. On May 1, 2009, the Illinois EPA issued to Kness coverage under the General NPDES Permit for Storm Water Discharges from Industrial Activity #ILR000318 (“Kness NPDES Permit”) with a 5 year expiration date of April 30, 2014.

8. On October 10, 2013, Kness submitted a Notice of Intent (“NOI”) to renew the Kness NPDES Permit.

9. On April 5, 2017, the Illinois EPA issued to Kness renewed coverage under the Kness NPDES Permit with a 5 year expiration date of March 31, 2022, which required Kness submit a Storm Water Pollution Prevention Plan (“SWPPP”) within 180 days and an annual reports within 60 days as follows:

Condition No. E.2 of the Kness NPDES Permit provides in pertinent part as follows:

Plans for new facilities shall be completed prior to submitting an NOI to be covered under this permit. An electronic copy of the SWPPP shall be submitted to the Agency at the following email address: epa.indilr00swppp@illinois.gov. Plans shall provide for compliance with the effluent limitations in Part F of this permit prior to operation of any industrial activity to be covered under this permit. [Note: If the plan has already been required to be developed under a previous permit it shall be updated and maintained in accordance with all requirements of this Special Condition within 180 days of the effective date of this permit. ...

Condition No. K.1 of the Kness NPDES Permit provides as follows:

The Permittee shall submit an electronic copy of the annual inspection report to the Agency. ...

Condition No. K.3 of the Kness NPDES Permit provides as follows:

Existing Permittees renewing coverage under this permit shall continue to submit the Annual Report no later than 60 days after the original date of effective coverage under a general storm water permit.

10. On June 8, 2017, upon receiving the 2016 annual report, Illinois EPA sent a letter renewing the Kness NPDES Permit contingent on Kness submitting a SWPPP within 180 days of the letter.

11. As of October 25, 2020, or a date better known to Kness, Kness had not submitted the SWPPP to the Illinois EPA.

12. As of October 25, 2020, or a date better known to Kness, Kness had not been submitted Annual Reports for the years 2017, 2018 and 2019 to the Illinois EPA.

13. On October 26, 2020, the Illinois EPA received and reviewed the SWPPP and Annual Reports submitted by Kness; Illinois EPA determined that Kness was in compliance with the SWPPP and Annual Reports requirements of the Kness NPDES Permit.

14. The CWA regulates the discharge of pollutants from a point source into navigable waters and prohibits such point source discharges without an NPDES permit. The United States

Environmental Protection Agency (“USEPA”) administers the NPDES program in each State unless the USEPA has delegated authority to do so to that State.

15. The USEPA has authorized the State of Illinois to issue NPDES permits, through the Illinois EPA in compliance with NPDES federal regulations (“USEPA NPDES Regulations”), including storm water discharges regulated by 40 CFR 122.26, which requires a person to obtain an NPDES permit and to implement a storm water pollution prevention plan for industrial activity including storage of transport vehicles and industrial materials.

16. Section 12(f) of the Act, 415 ILCS 5/12(f) (2020), provides as follows:

No person shall:

Cause, threaten or allow the discharge of any contaminant into the waters of the State, as defined herein, including but not limited to, waters to any sewage works, or into any well or from any point source within the State, without an NPDES [National Pollution Discharge Elimination System] 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.

17. Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a), provides as follows:

Except as in compliance with the provisions of the Act, Board regulations, and the CWA, and the provisions and conditions of the NPDES permit issued to the discharger, the discharge of any contaminant or pollutant by any person into the waters of the State from a point source or into a well shall be unlawful.

18. Section 3.315 of the Act, 415 ILCS 5/3.315 (2020), 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.

19. Section 3.165 of the Act, 415 ILCS 5/3.165 (2020), provides the following definition:

“CONTAMINANT” is any solid, liquid, or gaseous matter, any odor or any form of energy, from whatever source.

20. Section 3.550 of the Act, 415 ILCS 5/3.550 (2020), provides the following definition:

“WATERS” means all accumulations of water, surface and underground, natural, and artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon this State.

21. Kness is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2020).

22. The automotive fluids, used oil, petroleum, tires and manure at the Site are each a “contaminant,” as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2020).

23. The unnamed tributary, Rock Creek, and the Rock River are “waters” of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

24. From at least December 5, 2017 through October 25, 2020, or a date or dates better known to Respondent, Kness failed to timely submit a SWPPP and Annual Reports for the years 2017, 2018 and 2019 pursuant to the Kness NPDES Permit in violation of Conditions No. E.2, K.1, and K.3 of the Kness NPDES Permit, which thereby violated Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a), and Section 12(f) of the Act, 415 ILCS 5/12(f) (2020).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, KNESS TRUCKING, 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 Section 12(f) of the Act, 415 ILCS 5/12(f) (2020), Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a), and Conditions No. E.2, K.1, and K.3 of the Kness NPDES Permit;
3. Ordering the Respondent to cease and desist from any further violations of Section 12(f) of the Act, 415 ILCS 5/12(f) (2020), Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a), and Conditions No. E.2, K.1, and K.3 of the Kness NPDES Permit;
4. Assessing against the Respondent a civil penalty of ten thousand dollars (\$10,000) for each day during which each violation continued for Section 12(f) of the Act, 415 ILCS 5/12(f) (2020), Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a), and Conditions No. E.2, K.1, and K.3 of the Kness NPDES Permit;
5. Ordering the Respondent, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2020), to pay all costs expended by the State in its pursuit of this action, including attorney, expert witness, and consultant fees;

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

PEOPLE OF THE STATE OF ILLINOIS,
by KWAME RAOUL, Attorney
General of the State of Illinois

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

By: /s/ Stephen J. Sylvester
STEPHEN J. SYLVESTER, Chief
Environmental Bureau
Assistant Attorney General

Of Counsel:
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Assistant Attorney General
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69 West Washington Street, Suite 1800
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MOTION FOR RELIEF FROM HEARING REQUIREMENT

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, and pursuant to Section 31(c)(2) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31(c)(2) (2020), moves that the Illinois Pollution Control Board (“Board”) grant the parties in the above-captioned matter relief from the hearing requirement imposed by Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2020). In support of this motion, Complainant states as follows:

1. The Complaint in this matter alleges violations of Section 12(f) of the Act, 415 ILCS 5/12(f) (2020), Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a), and Conditions No. E.2, K.1, and K.3 of the General NPDES Permit for Storm Water Discharges from Industrial Activity #ILR000318 (“Kness NPDES Permit”).
2. Complainant is filing the Complaint with the Board simultaneous with this Motion and a Stipulation and Proposal for Settlement.
3. The parties have reached agreement on all outstanding issues in this matter.
4. This agreement is presented to the Board in a Stipulation and Proposal for Settlement filed this same date.

5. All parties agree that a hearing on the Stipulation and Proposal for Settlement is not necessary, and respectfully request relief from such a hearing as allowed by Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2020).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby requests that the Board grant this motion for relief from the hearing requirement set forth in Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2020).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

KWAME RAOUL
Attorney General
State of Illinois

BY: *Nancy J. Tikalsky*
Nancy J. Tikalsky
Assistant Attorney General
Environmental Bureau
Office of the Illinois Attorney General
69 West Washington Street, Suite 1800
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DATE: April 30, 2021

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STIPULATION AND PROPOSAL FOR SETTLEMENT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (“Illinois EPA”), and KNESS TRUCKING, INC. (“Respondent”), (collectively “Parties to the Stipulation”), have agreed to the making of this Stipulation and Proposal for Settlement (“Stipulation”) and submit it to the Illinois Pollution Control Board (“Board”) for approval. This stipulation of facts is made and agreed upon for purposes of settlement only and as a factual basis for the Board’s approval of this Stipulation and issuance of relief. None of the facts stipulated herein shall be introduced into evidence in any other proceeding regarding the violations of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/1, et seq. (2020), and the Board’s regulations, alleged in the Complaint except as otherwise provided herein. It is the intent of the Parties to the Stipulation that it be a final adjudication of this matter.

I. STATEMENT OF FACTS

A. Parties

1. On April 30, 2021, a Complaint was filed on behalf of the People of the State of Illinois by KWAME RAOUL, Attorney General of the State of Illinois, on his own motion and upon the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2020), against the Respondent.

2. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2020) and charged, *inter alia*, with the duty of enforcing the Act. The Illinois EPA is further charged with the duty to abate violations of the general National Pollution Discharge Elimination System (“NPDES”) permit program under the Federal Clean Water Act (“CWA”), 33 U.S.C. § 1342(b)(7).

3. Respondent, Kness, is an Illinois corporation. Kness owns and operates a freight shipping and hauling transportation service located at 113 West Third Street, Chadwick, Carroll County, Illinois (“Site”). Kness transports general freight, livestock and refrigerated food among other commodities. In addition, Kness stores and maintains transport vehicles, which generate automotive fluids, and stores livestock manure, tires, used oil and petroleum at the Site. The Illinois EPA issued to Kness coverage under the General NPDES Permit for Storm Water Discharges from Industrial Activity #ILR000318 (“Kness NPDES Permit”).

B. Allegations of Non-Compliance

VIOLATIONS OF GENERAL STORMWATER PERMIT
Violations of 415 ILCS 5/12(f) (2020), 35 Ill. Adm. Code 309.102(a), and Conditions No. E.2, K.1, and K.3 of the Kness NPDES Permit.

C. Non-Admission of Violations

The Respondent represents that it has entered into this Stipulation for the purpose of settling and compromising disputed claims without having to incur the expense of contested litigation. By entering into this Stipulation and complying with its terms, the Respondent does not affirmatively admit the allegations of violation within the Complaint, and this Stipulation shall not be interpreted as including such admission.

D. Compliance Activities to Date

1. On October 26, 2020, the Illinois EPA received and reviewed a SWPPP submitted by Respondent pursuant to the Kness NPDES Permit requirement and found Kness was in compliance with the Kness NPDES Permit.

2. On October 26, 2020, the Illinois EPA received and reviewed annual reports for 2017, 2018 and 2019 submitted by Respondent pursuant to the Kness NPDES Permit requirement and found Kness was in compliance with the Kness NPDES Permit.

II. APPLICABILITY

This Stipulation shall apply to and be binding upon the Parties to the Stipulation. The Respondent shall not raise as a defense to any enforcement action taken pursuant to this Stipulation the failure of any of its officers, directors, agents, employees or successors or assigns to take such action as shall be required to comply with the provisions of this Stipulation. This Stipulation may be used against the Respondent in any subsequent enforcement action or permit proceeding as proof of a past adjudication of violation of the Act and the Board Regulations for all violations alleged in the Complaint in this matter, for purposes of Sections 39 and 42 of the Act, 415 ILCS 5/39 and 42 (2020).

No change in ownership, corporate status or operator of the Facility shall in any way alter the responsibilities of the Respondent under this Stipulation. In the event that the Respondent proposes to sell or transfer any real property or operations subject to this Stipulation, the Respondent shall notify the Complainant thirty (30) calendar days prior to the conveyance of title, ownership or other interest, including a leasehold interest in the Facility or a portion thereof. The Respondent shall make as a condition of any such sale or transfer, that the purchaser or successor provide to Respondent site access and all cooperation necessary for Respondent to perform to completion any compliance obligation(s) required by this Stipulation. The Respondent shall provide a copy of this Stipulation to any such successor in interest and the Respondent shall continue to be bound by and remain liable for performance of all obligations under this Stipulation. In appropriate circumstances, however, the Respondent and a proposed purchaser or operator of the Facility may jointly request, and the Complainant, in its discretion, may consider modification of this Stipulation to obligate the proposed purchaser or operator to carry out future requirements of this Stipulation in place of, or in addition to, the Respondent. This provision does not relieve the Respondent from compliance with any regulatory requirement regarding notice and transfer of applicable Facility permits.

III. IMPACT ON THE PUBLIC RESULTING FROM ALLEGED NON-COMPLIANCE

Section 33(c) of the Act, 415 ILCS 5/33(c) (2020), provides as follows:

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:

1. the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
2. the social and economic value of the pollution source;

3. 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;
4. the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
5. any subsequent compliance.

In response to these factors, the Parties to the Stipulation state the following:

1. Respondent threatened human health and the environment by its failure to timely submit a SWPPP and Annual Reports for years 2017, 2018 and 2019 as required by the Kness NPDES permit.
2. Respondent's Site is currently operational and has both social and economic value.
3. Respondent's Site was suitable for its activity as it was constructed and operated.
4. It is technically practicable and economically reasonable for Respondent to maintain coverage under the Kness NPDES Permit at the Site.
5. Respondent has undertaken measures to address and correct the permit violations and come into compliance with the Kness NPDES Permit for the Site.

IV. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h) (2020), provides as follows:

In determining the appropriate civil penalty to be imposed under . . . 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 response to these factors, the Parties to the Stipulation state as follows:

1. From at least December 5, 2017 and continuing through October 25, 2020, Respondent failed to correct the violations of the Act, Board Water Pollution Regulation and the Kness NPDES Permit. On October 26, 2020, the violations were resolved.
2. From at least December 5, 2017 and continuing through October 25, 2020, Respondent was not responsive to coming into compliance with the Act, Board Water Pollution Regulation and the Kness NPDES Permit.
3. The civil penalty takes into account any economic benefit realized by the Respondent as a result of avoided or delayed compliance.
4. Complainant has determined, based upon the specific facts of this matter that a penalty of Nine Thousand dollars (\$9,000.00) will serve to deter further violations and aid in

future voluntary compliance with the Act and Board Water Pollution Regulations.

5. To Complainant's knowledge, Respondent has no previously adjudicated violations of the Act.
6. Self-disclosure is not at issue in this matter.
7. The settlement of this matter does not include a supplemental environmental project.
8. A Compliance Commitment Agreement was not proposed by Respondent.

V. TERMS OF SETTLEMENT

A. Penalty Payment

The Respondent shall pay a civil penalty in the sum of Nine Thousand dollars (\$9,000.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

B. Stipulated Penalties, Interest, and Default

1. If the Respondent fails to complete any activity or fails to comply with any response or reporting requirement by the date specified in this Stipulation, the Respondent shall provide notice to the Complainant of each failure to comply with this Stipulation and shall pay stipulated penalties in the amount of \$400.00 per day per violation for up to the first fifteen (15) days of violation, \$500.00 per day per violation for the next fifteen (15) days of violation, and \$1,000.00 per day per violation thereafter until such time that compliance is achieved. The Complainant may make a demand for stipulated penalties upon the Respondent for its noncompliance with this Stipulation. However, failure by the Complainant to make this demand shall not relieve the Respondent of the obligation to pay stipulated penalties. All stipulated penalties shall be payable within thirty (30) calendar days of the date the Respondent knows or should have known of its noncompliance with any provision of this Stipulation.

2. If the Respondent fails to make any payment required by this Stipulation on or before the date upon which the payment is due, the Respondent shall be in default and the remaining unpaid balance of the penalty, plus any accrued interest, shall be due and owing immediately. In the event of default, the Complainant shall be entitled to reasonable costs of collection, including reasonable attorney's fees.

3. Pursuant to Section 42(g) of the Act, interest shall accrue on any penalty amount owed by the Respondent not paid within the time prescribed herein. Interest on unpaid penalties shall begin to accrue from the date such are due and continue to accrue to the date full payment is received. Where partial payment is made on any penalty amount that is due, such partial payment shall be first applied to any interest on unpaid penalties then owing.

4. The stipulated penalties shall be enforceable by the Complainant and shall be in addition to, and shall not preclude the use of, any other remedies or sanctions arising from the failure to comply with this Stipulation.

C. Payment Procedures

1. All payments required by this Stipulation shall be made by certified check or money order payable to the Illinois EPA for deposit into the Environmental Protection Trust Fund ("EPTF"). Payments shall be sent by first class mail and delivered to:

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

2. The case name and case number shall appear on the face of the certified check or money order.

3. A copy of the certified check or money order and any transmittal letter shall be sent to:

Nancy J. Tikalsky
Assistant Attorney General
Environmental Bureau North
Illinois Attorney General's Office
69 West Washington Street, Suite 1800
Chicago, IL 60602
ntikalsky@atg.state.il.us

D. Future Compliance

1. Respondent shall timely submit Kness NPDES Permit annual reports and permit renewals and otherwise shall comply with all terms and conditions of coverage under the Kness NPDES Permit.

2. In addition to any other authorities, the Illinois EPA, its employees and representatives, and the Attorney General, his employees and representatives, shall have the right of entry into and upon the Respondent's Site, which is the subject of this Stipulation, at all reasonable times for the purposes of conducting inspections and evaluating compliance status. In conducting such inspections, the Illinois EPA, its employees and representatives, and the Attorney General, his employees and representatives, may take photographs, samples, and collect information, as they deem necessary.

3. This Stipulation in no way affects the responsibilities of the Respondent to comply with any other federal, state or local laws or regulations, including but not limited to the Act and the Board Water Pollution Regulations and the Kness NPDES Permit.

4. The Respondent shall cease and desist from future violations of the Act, Board Water Pollution Regulation and the Kness NPDES Permit that were the subject matter of the Complaint.

E. Release from Liability

In consideration of the Respondent's payment of the \$9,000.00 penalty, its commitment to cease and desist as contained in Paragraph V.D.4 above, and upon the Board's approval of this Stipulation, the Complainant releases, waives and discharges the Respondent from any further liability or penalties for the violations of the Act, Board Water Pollution Regulation and Kness NPDES Permit that were the subject matter of the Complaint. The release set forth above does not extend to any matters other than those expressly specified in the Complaint filed on April 30, 2021. The Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against the Respondent with respect to all other matters, including but not limited to, the following:

- a. criminal liability;
- b. liability for future violation of state, federal, local, and common laws and/or regulations;
- c. liability for natural resources damage arising out of the alleged violations; and
- d. liability or claims based on the Respondent's failure to satisfy the requirements of this Stipulation.

Nothing in this Stipulation is intended as a waiver, discharge, release, or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the State of Illinois may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315 (2020), or entity other than the Respondent.

F. Enforcement of Stipulation

Upon the entry of the Board's Order approving and accepting this Stipulation, that Order is a binding and enforceable order of the Board and may be enforced as such through any and all available means.

G. Opportunity For Public Comment

Pursuant to 35 Ill. Adm. Code 103.300(b)(2), the Board shall publish notice of this Stipulation for at least 30 days prior to the Board accepting the Stipulation. If public comments are submitted to the Board regarding this Stipulation, the Complainant reserves the right to withdraw its consent if the comments regarding the Stipulation disclose facts or considerations which indicate that the Stipulation is inappropriate, improper, or inadequate. Respondent consents to the entry of this Stipulation without further notice and agrees not to withdraw from or oppose acceptance of this Stipulation or to challenge any provision of the Stipulation, unless the Complainant has notified Respondent in writing that it withdraws or withholds its consent for the Stipulation. In the event the Complainant notifies the Respondent that it withdraws or withholds its consent for the Stipulation, then the terms of the agreement may not be used as evidence in any litigation between those entities.

H. Execution of Stipulation

The undersigned representatives for the Parties to the Stipulation certify that they are fully authorized by the party whom they represent to enter into the terms and conditions of this Stipulation and to legally bind them to it.

WHEREFORE, the Parties to the Stipulation request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

PEOPLE OF THE STATE OF ILLINOIS
by KWAME RAOUL
Attorney General of the
State of Illinois

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

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

JOHN J. KIM, Director
Illinois Environmental Protection Agency

BY: *Stephen J. Sylvester*
STEPHEN J. SYLVESTER, Chief
Environmental Bureau
Assistant Attorney General

BY: *Charles W. Gunnarson*
CHARLES W. GUNNARSON
Chief Legal Counsel

DATE: April 27, 2021

DATE: 4/8/21

KNESS TRUCKING, INC.

Its: _____
[Title of Signatory]

DATE: _____

WHEREFORE, the Parties to the Stipulation request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

PEOPLE OF THE STATE OF ILLINOIS
by KWAME RAOUL
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Assistant Attorney General

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DATE: _____

DATE: _____

KNESS TRUCKING, INC.

Scott Kress

Its: President
[Title of Signatory]

DATE: 3/16/2021