

ILLINOIS POLLUTION CONTROL BOARD  
February 20, 2014

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
v. ) PCB 11-42  
) (Enforcement – Land)  
JOEL A. MOSKE, d/b/a U.S. SCRAP, )  
)  
Respondent. )

OPINION AND ORDER OF THE BOARD (by C.K. Zalewski):

On January 19, 2011, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a three-count complaint (Comp.) against Joel A. Moske d/b/a U.S. Scrap (Moske), alleging violations of the Environmental Protection Act (Act) and the Board’s regulations. *See* 415 ILCS 5/31(c)(1) (2012)<sup>1</sup>; 35 Ill. Adm. Code 103.204. The complaint involves the U.S. Scrap site (Site) located at 1551 E. McBride Street, Decatur, Macon County. Comp. at 2. On January 7, 2014, the People filed a motion to deem admitted matters of fact and genuineness of documents (Mot. to Admit). On January 9, 2014, the People filed a motion for summary judgment (Mot.). No response has been filed to either motion. The People argue that there is no genuine issue of material fact and that they are entitled to judgment as a matter of law.

For the reasons discussed below, the Board grants the People’s motion to admit and grants, in part, the People’s motion for summary judgment, finding that Moske violated Sections 9(a), 9(c), 21(a), 21(e), 21(p)(3) and 21(p)(7)(i) of the Act (415 ILCS 5/9(a), 9(c), 21(a), 21(e), 21(p)(3), 21(p)(7)(i) (2012)). The Board denies the People’s motion for summary judgment with respect to count III of the complaint alleging violations of Sections 722.111 and 808.121 of the Board’s waste regulations (35 Ill. Adm. Code 722.111, 808.121).

In this opinion and order, the Board first reviews the procedural history of this case and the motion to deem facts admitted. The Board next summarizes the People’s complaint and the uncontested facts derived from the evidence obtained by the Illinois Environmental Protection Agency (IEPA). The Board then sets forth the relevant statutory and regulatory provisions. After summarizing the People’s motion for summary judgment, the Board provides a discussion and ruling on the People’s motion for summary judgment.

**PROCEDURAL BACKGROUND**

The People’s complaint alleges that Moske violated Sections 9(a), 9(c), 21(a), 21(e), 21(p)(3), and 21(p)(7)(i) of the Act (415 ILCS 5/9(a), 9(c), 21(a), 21(e), 21(p)(3), 21(p)(7)(i) (2012)). Comp. at 2-6. The People also allege that Moske violated Sections 722.111 and

<sup>1</sup> All citations to the Act will be to the 2012 compiled statutes, unless the provision at issue has been substantively amended in the 2012 compiled statutes.

808.121 of the Board's waste regulations (35 Ill. Adm. Code 722.111, 808.121). *Id.* On February 3, 2011, the Board accepted the complaint for hearing. On January 7, 2014, the People filed a motion to deem admitted matters of fact and genuineness of documents. On January 9, 2014, the People filed a motion for summary judgment. Moske initially participated in telephone status conferences with the People and the hearing officer, yet no answer or responsive pleadings to the complaint, motion to deem facts admitted, or motion for summary judgment have been filed by Moske.

### **COMPLAINT**

Count I of the complaint alleges that Moske consolidated waste materials at the Site that is neither permitted as a sanitary landfill nor meets the requirements of the Act and regulations and standards promulgated thereunder in violation of Section 21(a) of the Act (415 ILCS 5/21(a) (2012)). Comp. at 4. Further, the complaint alleges Moske disposed, stored, and abandoned waste at the Site, and that the Site does not meet the requirements of the Act, regulations, and standards promulgated thereunder, in violation of Section 21(e) of the Act (415 ILCS 5/21(e) (2012)). *Id.* Count I additionally alleges that Moske caused or allowed open dumping at the Site that resulted in the deposition of demolition debris, in violation of Section 21(p)(7)(i) of the Act (415 ILCS 5/21(p)(7)(i) (2012)). *Id.*

Count II of the complaint alleges that Moske accumulated pieces of scrap wood, insulation, and tarboard and open burned them on the Site, causing or allowing the emission of contaminants into the environment, in violation of Section 9(a) of the Act (415 ILCS 5/9(a) (2012)). Comp. at 6. Further, the complaint alleges, “[b]y causing or allowing the open burning of scrap wood, insulation, and tarboard at a site that does not meet the requirements of the Act and of the regulations and the standards promulgated thereunder,” Moske violated Section 9(c) of the Act (415 ILCS 5/9(c) (2012)). *Id.* Finally, Count II alleges that Moske caused or allowed the open dumping of waste, which resulted in open burning at the Site, in violation of Section 21(p)(3) of the Act (415 ILCS 5/21(p)(3) (2012)). *Id.*

Count III of the complaint alleges that Moske failed to characterize or determine whether the gray ash-like material on the Site was either hazardous or special waste, in violation of Sections 702.111 and 808.121 of the Board's waste disposal regulations (35 Ill. Adm. Code 702.111, 808.121). Comp. at 7.

For all counts, the People ask that the Board: 1) authorize a hearing in the matter; 2) issue a finding that Moske violated the Act and Board regulations; 3) order Moske to cease and desist from further violations of the Act and Board regulations; 4) order Moske to pay a civil penalty for the violations; and 5) grant such other relief as deemed appropriate. Comp. at 5, 7, and 8.

### **MOTION TO DEEM FACTS ADMITTED**

The People filed the motion to admit on January 7, 2014 and a motion for summary judgment against Moske on January 9, 2014. Moske has not filed a response to either motion. The Board's regulations provide, “[i]f no response is filed, the party will be deemed to have

waived objection to the granting of the motion, but the waiver of objection does not bind the Board or the hearing officer in its disposition of the motion.” 35 Ill. Adm. Code 101.500(d). Section 101.500(d) further provides that the Board will not grant the motion before the expiration of the 14-day response period, unless undue delay or material prejudice would result. *Id.*

The Board’s rules require respondents to respond to a request to admit within 28 days after receipt of the request. 35 Ill. Adm. Code 101.618(f). Each fact is admitted unless the respondent timely files a response denying the fact, explaining why the respondent cannot truthfully admit or deny the fact, or objecting to the request. *Id.* The People mailed their request for admission of facts on October 25, 2012. Mot. to Admit at 2, Exh. 1. Moske filed no response to the request. *Id.* Because Moske did not respond to the People’s request, the Board grants the People’s motion to admit, and finds that the facts alleged in the People’s motion are deemed admitted by Moske.

### FACTS

U.S. Scrap was registered as a domestic corporation in Illinois, but was involuntarily dissolved in August of 2009. Mot. to Admit Exh. 1 at 1. Moske was the president of the corporation. *Id.* Moske continues to operate U.S. Scrap at the Site, which is not permitted by IEPA as a sanitary landfill. *Id.* IEPA conducted a number of inspections of the Site that resulted in administrative citations and violation notices before the February 21, 2007 inspection that is the subject of the People’s complaint. Moske was present at the Site for the IEPA inspections conducted on February 21, 2007 and June 22, 2009. *See* Mot. to Admit Exh. 1-A, 1-B, 1-C, 1-D, and 1-E.<sup>2</sup>

On February 20, 2007, IEPA received a complaint that tires were being burned on the Site. Mot. to Admit Exh. 1-A. On February 21, 2007, Dustin Burger, an inspector with the IEPA Bureau of Land, conducted an inspection of the Site. *Id.* Mr. Burger observed several piles of soil mixed with debris including wood, metal, concrete, and insulation. *Id.* Also present at the Site were a pile of gray ash-like material, a large pile of broken concrete with protruding rebar, as well as a pile of scrap wood, insulation, and tarboard that was smoldering. *Id.* Moske acknowledged the pile of gray fly ash at the Site and indicated that it was present when he bought the Site. *Id.* The IEPA inspection report indicates that the estimated volume of waste at the Site was 250 cubic yards. *Id.*

On May 6, 2008, Mr. Burger again inspected the Site. Mot. to Admit Exh. 1-B. Mr. Burger observed that the gray ash-like material, some piles of debris, and some of the broken concrete had been removed. *Id.* However, some tires and broken concrete, as well as a large pile of soil mixed with debris, including metals, plastics, concrete, wood, glass and rubber, remained on the Site. *Id.* The IEPA inspection report again indicates that the estimated volume of waste at

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<sup>2</sup> The People’s motion to admit is not consecutively numbered through the attached exhibits. Exhibit 1 to the motion to admit is the Request for Admission of Fact and Genuineness of Documents. The remaining exhibits are IEPA inspection reports included in support of the Request for Admission of Fact and Genuineness of Documents which the People assigned letters. These exhibits will be cited as Mot. to Admit Exh. 1-A, for example.

the Site was 250 cubic yards. *Id.* The report states that while some waste was removed from the east side of the Site, the removed waste “exposed a large waste area that was an amalgamation of metal, soil, plastic, concrete, wood, glass, and rubber. The volume is extremely large, amounting to approximately 100 semi-loads of mixed debris.” *Id.*

On June 22, 2009, Mr. Burger inspected the Site a third time. Mot. to Admit Exh. 1-C. Mr. Burger observed that the majority of the scrapyards was clean, but piles of scrap metal, as well as a large pile containing soil mixed with other debris, remained. *Id.* The soil was mixed with plastic, glass, fiberglass, and metal. *Id.* The IEPA inspection report indicates that the estimated volume of waste at the Site had increased to 500 cubic yards. *Id.*

On November 12, 2010, Mr. Burger made a fourth inspection of the Site. Mot. to Admit Exh. 1-D. During this inspection, Mr. Burger observed that some metals and waste had been removed from the property, but there were still two piles of soil mixed with metal, rubber, plastic, and other small debris from automobiles. *Id.* There was also a small pile of scrap metals, as well as trailers containing used tires, located on the Site. *Id.* The IEPA inspection report indicates that the estimated volume of waste at the Site had increased to 2000 cubic yards. *Id.*

Finally, on February 22, 2012, Mr. Burger made a fifth inspection of the Site. Mot. to Admit Exh. 1-E. Again, Mr. Burger observed two piles of soil mixed with debris, including metal, rubber, plastic, and small debris from automobiles. *Id.* There was also a small pile of scrap metal and a roll-off box containing old lumber located on the Site. *Id.* The IEPA inspection report again indicates that the estimated volume of waste at the Site was 2000 cubic yards. *Id.* Mr. Burger took pictures documenting his observations during all inspections.

### **STATUTORY AND REGULATORY BACKGROUND**

Section 9 of the Act provides, in pertinent part, that no person shall:

- (a) Cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act.

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- (c) Cause or allow the open burning of refuse, conduct any salvage operation by open burning, or cause or allow the burning of any refuse in any chamber not specifically designed for the purpose and approved by the Agency pursuant to regulations adopted by the Board under this Act. 415 ILCS 5/9(a), (c) (2012).

Section 21 of the Act provides, in pertinent part, that no person shall:

- (a) Cause or allow the open dumping of any waste.  
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- (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.  
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- (p) In violation of subdivision (a) of this Section, cause or allow the open dumping of any waste in a manner which results in any of the following occurrences at the dump site:  
\*\*\*
  - (3) open burning.  
\*\*\*
  - (7) deposition of:
    - (i) general construction or demolition debris as defined in Section 3.160(a) of this Act. 415 ILCS 5/21(a), (e), (p)(3), (p)(7)(i) (2012).

Section 3.160(a) of the Act provides:

General construction or demolition debris means non-hazardous, uncontaminated materials resulting from the construction, remodeling, repair, and demolition of utilities, structures, and roads, limited to the following: bricks, concrete, and other masonry materials; soil; rock; wood, including non-hazardous painted, treated, and coated wood and wood products; wall coverings; plaster; drywall; plumbing fixtures; non-asbestos insulation; roofing shingles and other roof coverings; reclaimed asphalt pavement; glass; plastics that are not sealed in a manner that conceals waste; electrical wiring and components containing no hazardous substances; and piping or metals incidental to any of those materials. 415 ILCS 5/3.160(a) (2012).

Section 702.111 of the Board's regulations provides in pertinent part:

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. 35 Ill. Adm. Code 702.111.

Section 808.121 of the Board's regulations provides in pertinent part:

Each person who generates waste shall determine whether the waste is a special waste. 35 Ill. Adm. Code 808.121.

## **MOTION FOR SUMMARY JUDGMENT**

The People argue that the facts deemed admitted, together with the exhibits supporting the motion, contain all material facts necessary to establish liability on all three counts of the complaint. Mot. at 2. Based on Mr. Burger's affidavit and inspection reports, the People allege that Moske violated the Act by (1) causing or allowing air pollution, open burning, and open dumping; (2) conducting waste storage or disposal on a site not meeting the requirements of the Act; and (3) causing or allowing open burning and deposition of demolition debris on the Site. *Id.* at 5-6. Additionally, the People allege that Moske violated the Board's regulations by failing to make hazardous and special waste determinations. *Id.*

The People assert that based upon the affidavit and inspection reports, there are no genuine issues of fact, and the People are entitled to judgment as a matter of law. Mot. at 2. The People maintain that Moske open dumped and improperly disposed of refuse, which resulted in open burning and emission of contaminants into the environment. *Id.* at 6-8. The People further maintain that Moske failed to properly characterize the waste. *Id.* at 9.

### **STANDARD OF REVIEW**

Summary judgment is appropriate when the record, pleadings, depositions, admissions on file, and affidavits disclose that there is no genuine issue as to any material fact, and the moving party is entitled to judgment as a matter of law. IEPA and The Village of New Lenox v. PCB et. al., 386 Ill. App. 3d 375, 391, 896 N.E.2d 479, 493 (3rd Dist. 2008), citing Dowd & Dowd, Ltd. v. Gleason, 181 Ill. 2d 460, 693 N.E.2d 358 (1998); *See* 35 Ill. Adm. Code 101.516(b). In ruling on a motion for summary judgment, the Board "must consider the pleadings, depositions, and affidavits strictly against the movant and in favor of the opposing party." Dowd, 181 Ill. 2d at 483, 693 N.E.2d at 370. Summary judgment "is a drastic means of disposing of litigation," and therefore it should be granted only when the movant's right to relief "is clear and free from doubt." Dowd, 181 Ill. 2d at 483, 693 N.E.2d at 370, citing Purtill v. Hess, 111 Ill. 2d 299, 240, 489 N.E.2d 867, 871 (1986). However, a party opposing a motion for summary judgment may not rest on the pleadings, but must "present a factual basis which would arguably entitle [it] to judgment." Gauthier v. Westfall, 266 Ill. App. 3d 213, 219, 639 N.E.2d 994, 999 (2nd Dist. 1994).

The Board's rules require a party to respond to a motion for summary judgment within 14 days after receipt of the motion. 35 Ill. Adm. Code 101.516(a). If no response is filed, "the party will be deemed to have waived objection to the granting of the motion." 35 Ill. Adm. Code 101.500(d). The record is clear that Moske has not responded to the People's motion for summary judgment or filed a motion for an extension of time to respond. Therefore, the Board finds that Moske has waived any objection to the granting of the People's motion. *See* 35 Ill. Adm. Code 101.500(d). Because, as the Board found above, Moske is deemed to have admitted the material facts alleged by the People, there are no genuine issues of fact, and the Board finds that summary judgment is appropriate.

## **BURDEN OF PROOF**

In an enforcement proceeding before the Board, the burden of proof is by a preponderance of the evidence. People v. General Waste Services, PCB 07-45, slip op. at 11 (April 7, 2011), citing People v. Community Landfill Inc., PCB 97-193, 04-207 (consld), slip op. at 13 (Aug. 20, 2009), People v. Blue Ridge Construction Corp., PCB 02-115, slip op. at 12 (Oct. 7, 2004). A proposition is proved by a preponderance of the evidence when it is more probably true than not. People v. General Waste Services, Inc., PCB 07-45, slip op. at 11 (Apr. 7, 2011), citing Industrial Salvage Inc. v. County of Marion, PCB 83-173, slip op. at 4 (Aug. 2, 1984). Once the complainant presents sufficient evidence to make a prima facie case, the burden of going forward shifts to the respondent to disprove the propositions. *Id.*, citing IEPA v. Bliss, PCB 83-17, slip op. at 6-7 (Aug. 2, 1984).

## **DISCUSSION**

Summary judgment is appropriate because the Board has deemed admitted the facts alleged against Moske, and Moske has not responded to the motion for summary judgment. The Board grants summary judgment as to counts I and II and denies summary judgment as to count III. The Board analyzes each count below.

### **Count I**

The People allege that Moske violated Sections 21(a), (e), and (p)(7)(i) of the Act (415 ILCS 5/21(a), (e), (p)(7)(i) (2012)). In order to prevail on Count I, the People must prove that it is more probable than not that the material and debris on the property was refuse or waste, that Moske caused or allowed open dumping of the material at the Site, and that the open dumping resulted in the deposition of general construction or demolition debris. *See* 415 ILCS 5/21(a), (e), (p)(7)(i) (2012).

In support of these allegations, the People note that Moske collected and put into piles scrap metal, broken concrete, waste wood, glass, plastic, and other discarded material directly on the Site. Mot. at 8. The People argue that these materials left in uncovered piles meet the definition of waste as well as demolition debris. *Id.* Further, the People state that Moske's actions "consolidating waste at the Site amounts to 'open dumping.'" *Id.* Moske has continued to operate the Site since the dissolution of U.S. Scrap and was at the Site during some of the IEPA inspections. *Id.*

IEPA witnessed broken concrete with rebar at the Site, which is included in the definition of "clean construction or demolition debris." Mot. to Admit Exh. 1-A, 1-B; *see* 415 ILCS 5/3.160(a) (2012). The IEPA inspection reports provide evidence that Moske improperly disposed of waste at the Site, and that the open dumping resulted in the deposition of clean construction or demolition debris on the property. Mot. to Admit Exh. 1-A, 1-B. These facts establish and the IEPA photos illustrate that Moske caused or allowed open dumping on the Site by allowing piles of waste to accumulate. Therefore, the Board finds that Moske caused or allowed open dumping, at a site that did not meet the requirements of the Act, which resulted in

the deposition of demolition debris in violation of Sections 21(a), (e), and (p)(7)(i) of the Act (415 ILCS 5/21(a), (e), and (p)(7)(i) (2012)).

### **Count II**

The People allege that Moske violated Sections 9(a), 9(c), and 21(p)(3) of the Act (415 ILCS 5/9(a), 9(c), and 21(p)(3) (2012)). In order to prevail on Count II, the People must prove that it is more probably true than not that Moske open dumped in a manner that caused open burning, and as a result, caused, threatened, or allowed the discharge or emission of contaminants into the environment so as to cause or tend to cause air pollution.

In support of these allegations, the People note that the IEPA inspector stated in his affidavit that a pile of scrap wood, insulation, and tarboard was smoldering on the Site during his inspection on February 21, 2007. Mot. at 9; Mot. Exh. A at 2; Mot. to Admit Exh. 1-A. In addition, the IEPA inspection report included with the People's motion to admit includes photos of a smoldering pile at the Site. Mot. to Admit Exh. 1-A. The Board concluded above that Moske open dumped these materials at the Site. The People argue that by allowing these materials to be open burned on the property, Moske caused or allowed emission of contaminants into the environment, which caused or tended to cause air pollution. Mot. at 9.

The facts deemed admitted establish that Moske allowed open burning at the Site, which in turn caused the emission of contaminants into the environment. Therefore, the Board finds that Moske open dumped in a manner that caused open burning, which caused the discharge or emission of contaminants into the environment so as to cause air pollution, in violation of Sections 9(a), 9(c), and 21(p)(3) of the Act (415 ILCS 5/9(a), 9(c), 21(p)(3) (2012)).

### **Count III**

The People allege that Moske violated Sections 722.111 and 808.121 of the Board's waste disposal regulations (35 Ill. Adm. Code 722.111, 808.121). In order to prevail on Count III, the People must prove that it is more probably true than not that Moske was the generator of gray, ash-like material at the Site and failed to characterize or make required determinations regarding whether the gray, ash-like material was a hazardous or special waste.

In support of these allegations, the People state that a large pile of gray ash-like material was present on the Site during the February 21, 2007 inspection by the IEPA, as noted in the IEPA inspector's affidavit. Mot. at 10; Mot. to Admit Exh. 1-A. The material was presumed, by the inspector as well as Moske, to be fly ash. Mot. to Admit Exh. 1-A. However, the People allege Moske never made a determination whether the ash-like material was either a hazardous waste or a special waste. Mot. at 10. The May 6, 2008 inspection report indicates that the fly ash was gone from the Site. Mot. to Admit Exh. 1-B. As established above, the IEPA inspection reports have been deemed admitted by Moske, and Moske has failed to counter the People's allegation that Moske did not make a hazardous waste determination regarding the ash-like material.



The facts deemed admitted establish that the gray, ash-like material is a solid waste pursuant to Section 721.102 of the Board's waste disposal regulations. 35 Ill. Adm. Code 721.102. The record establishes that Moske did not make any determinations on whether the gray, ash-like material present on the Site was hazardous or special waste, even though Sections 722.111 and 808.121 both require the *generator* of certain solid waste to determine if the waste is a hazardous or special waste. 35 Ill. Adm. Code 722.111, 808.121 (emphasis added). Section 702.110 of the Board's waste disposal regulations defines "generator" as "any person, by site location, whose act or process produces hazardous waste." 35 Ill. Adm. Code 702.110.

The Board finds no evidence in the record that Moske is the generator of the gray, ash-like waste or that he produced the fly ash. In contrast, the Board notes that Moske indicated that the fly ash was on the Site when he acquired it. The various inspection reports attached to the People's motion to admit do not address the gray, ash-like material other than to document its presence on the Site, and say, "[t]he owner has not determined if a gray, ash-like material is a hazardous wastes [sic]," and "[t]he generator has not determined if a gray, ash-like material is a special waste." Mot. to Admit Exh. 1-A. Further, the People's motion for summary judgment states only that

A large pile of uncharacterized gray, ash-like material was present at the site on February 21, 2007. The material was presumed to be fly ash. By failing to characterize or determine whether the gray, ash-like material was a hazardous or special waste, Respondent violated Sections 722.111 and 808.121. Mot. at 10 (citation omitted).

On summary judgment, the Board must construe the facts strictly against the movant and in favor of the opposing party. *Supra* at 6. The inspector's conclusory statement that "the generator has not determined if a gray, ash-like material is special waste" is not sufficient to show that it is more probably true than not that Moske was the generator of the gray, ash-like material. Mot. to Admit Exh. 1-A. The inspection reports prove only that the gray, ash-like material was present at the Site at the time of the February 21, 2007 inspection.

The People's motion for summary judgment fails to address whether Moske is the generator of the gray, ash-like material. The February 21, 2007 IEPA inspection report includes a statement that the fly ash was present when Moske bought the Site. Because Moske is deemed to have admitted the facts included in the inspection reports, and because the Board must construe facts in favor of Moske, the Board cannot find that it is more probable than not that Moske generated the gray, fly ash material at the Site. Therefore, the Board finds that the People did not meet its burden of proof and denies the People's motion for summary judgment with respect to count III of the People's complaint and the alleged violations of Sections 722.111 and 808.121 of the Board's waste disposal regulations (35 Ill. Adm. Code 722.111, 808.121).

### **CONCLUSION**

The Board grants the People's motion for summary judgment, in part, finding that Moske violated Sections 9(a), 9(c), 21(a), 21(e), 21(p)(3), and 21(p)(7)(i) of the Act (415 ILCS 5/9(a), 9(c), 21(a), 21(e), 21(p)(3), 21(p)(7)(i) (2012)). The Board denies summary judgment with

regard to Sections 722.111 and 808.121 of the Board's waste disposal regulations (35 Ill. Adm. Code 722.111, 808.121) and directs the hearing officer to proceed to hearing on count III of the People's complaint. The Board withholds civil penalty discussion until the final order in this case.

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

**ORDER**

The Board grants summary judgment, in part, and finds that Joel A. Moske d/b/a U.S. Scrap (Moske) violated Sections 9(a), 9(c), 21(a), 21(e), 21(p)(3), and 21(p)(7)(i) of the Environmental Protection Act (Act) (415 ILCS 5/9(a), 9(c), 21(a), 21(e), 21(p)(3), 21(p)(7)(i) (2012)). The Board denies summary judgment with regard to the alleged violations of Sections 722.111 and 808.121 of the Board's waste disposal regulations (35 Ill. Adm. Code 722.111, 808.121). The Board directs the hearing officer to proceed to hearing on the allegations in count III of the People's complaint.

IT IS SO ORDERED.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on February 20, 2014 by a vote of 4 - 0.



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John T. Therriault, Clerk  
Illinois Pollution Control Board