ILLINOIS POLLUTION CONTROL BOARD February 1, 1996

PEOPLE OF THE STATE OF ILLINOIS,)
Complainant,) PCB 95-47) (Enforcement - Land)
v.)
W.O.W. TRUCK LINES, INC.,)
Respondent.	,

FINAL OPINION AND ORDER OF THE BOARD (by M. McFawn):

On December 20, 1995, the Board issued an interim opinion and order in this matter, granting summary judgment in favor of the People of the State of Illinois (People) against W.O.W. Truck Lines, Inc. (W.O.W.), and finding W.O.W. in violation of Section 21(g) of the Environmental Protection Act (Act), (415 ILCS 5/21(g)), and 35 Ill. Adm. Code 809.201. In the December 20, 1995 opinion, the Board also found that it was appropriate to assess a penalty of ten thousand dollars (\$10,000) against W.O.W., and to award the People their hearing costs and attorneys fees. The Board directed the People to file their hearing costs by January 4, 1996, and granted W.O.W. leave to file a response thereto by January 18, 1996.

On January 4, 1996, the People filed an affidavit of attorneys fees. The affidavit states that the preparation of pleadings in this matter required a total of seven hours, and seeks an hourly rate of one hundred twenty dollars (\$120.00) per hour, for a total of eight hundred forty dollars (\$840.00). In support of the one hundred twenty dollars (\$120.00) per hour rate, the People assert that such a rate was found reasonable in People v. ESG Watts, PCB 94-127 (May 4, 1995). W.O.W. has not filed a response to the People's affidavit of attorneys fees. We find that the requested attorneys fees are reasonable.

In accordance with the findings in our December 20, 1995 interim opinion and order, the attached order assesses a ten thousand dollar penalty (\$10,000) against W.O.W. and directs W.O.W. to pay the People's attorneys fees of eight hundred forty dollars (\$840.00).

This opinion constitutes the Board's final findings of fact and conclusions of law in this matter.

ORDER

Having found W.O.W. Truck Lines, Inc. (W.O.W.), in violation of Section 21(g) of the Environmental Protection Act (Act), (415 ILCS 5/21(g)), and 35 Ill. Adm. Code 809.201 in our December 20, 1995 interim opinion and order, we order W.O.W. to do the following:

- 1) W.O.W. shall immediately cease and desist from further violations of the Act or Board regulations.
- W.O.W. shall pay a penalty of ten thousand dollars (\$10,000) within 30 days of the date of this order. Such payment shall be made by certified check or money order payable to the Treasurer of the State of Illinois, designated to the Environmental Protection Trust Fund, and shall be sent by First Class mail to:

Illinois Environmental Protection Agency Fiscal Services Division 2200 Churchill Road P.O. Box 19276 Springfield, IL 62794-9276

The certified check or money order shall clearly indicate on its face, the respondent's Federal Employer Identification Number or Social Security Number and that payment is directed to the Illinois Environmental Protection Trust Fund.

Any such penalty not paid within the time prescribed shall incur interest at the rate set forth in subsection (a) of Section 1003 of the Illinois Income Tax Act (35 ILCS 5/1003) as now or hereafter amended, from the date payment is due until the date payment is received. Interest shall not accrue during the pendency of an appeal during which payment of the penalty has been stayed.

W.O.W. shall pay the attorneys fees of eight hundred forty dollars (\$840.00), incurred at a rate of \$120/hour, incurred by the Office of the Illinois Attorney General in its representation of the State of Illinois and the Illinois Environmental Protection Agency. Such payment shall be made by certified check or money order payable to the Treasurer of the State of Illinois, designated to the Hazardous Waste Fund, and shall be sent by First Class mail to:

Illinois Environmental Protection Agency Fiscal Services Division 2200 Churchill Road P.O. Box 19276 Springfield, IL 62794-9276 The certified check or money order shall clearly indicate on its face, the respondent's Federal Employer Identification Number or Social Security Number and that payment is directed to the Hazardous Waste Fund.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1994)) provides for the appeal of final Board orders within 35 days of the date of service of this order. The Rules of the Supreme Court of Illinois establish filing requirements. (See also 35 Ill. Adm. Code 101.246 "Motions for reconsideration".)

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above final opinion and order was adopted on the May day of Shuang, 1996, by a vote of

Dorothy M. Gund, Clerk
Illinois Pollution Control Board