



## **PROCEDURAL BACKGROUND**

On January 17, 2025, the People filed their complaint (Compl.), which the Board accepted for hearing on January 23, 2025. On February 11, 2025, the People filed documentation of service on Royal Creation on February 6, 2025. On June 17, 2025, the People filed documentation of service on Givens on February 6, 2025. To date, Respondents have not filed an answer to the complaint.

On October 20, 2025, the People filed a motion to deem facts admitted and for summary judgment against Respondents (Mot.). The motion includes a supporting affidavit from Greg Kazmerski, an Environmental Protection Specialist with the Illinois Environmental Protection Agency (Illinois EPA) (Kazmerski Affidavit). To date, Respondents have not responded to the motion.

## **COMPLAINT**

The People's complaint alleges that Respondents violated the following:

- Count I: Section 12(a) of the Act (415 ILCS 5/12(a) (2024)) by causing, threatening, or allowing the discharge of contaminants into the environment so as to cause or tend to cause water pollution;
- Count II: Section 12(d) of the Act (415 ILCS 5/12(d) (2024)) by creating a water pollution hazard;
- Count III: Section 21(a) of the Act (415 ILCS 5/21(a) (2024)) by causing or allowing open dumping of waste;
- Count IV: Section 21(d)(1) of the Act (415 ILCS 5/21(d)(1) (2024)) by conducting a waste disposal operation without a permit granted by Illinois EPA;
- Count V: Section 21(e) of the Act (415 ILCS 5/21(e) (2024)) by disposing of waste at an unpermitted site;
- Count VI: Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2024)) by causing or allowing open dumping of waste resulting in litter; and
- Count VII: Section 21(p)(6) of the Act (415 ILCS 5/21(p)(6) (2024)) by causing or allowing open dumping of waste resulting in liquid discharge from the dump site.

The complaint requests that the Board order Respondents to cease and desist from further violations of the Act, pay a civil penalty of \$50,000 for each violation of the Act and \$10,000 for each day of each violation, pay all costs, including fees for attorneys, expert witnesses, and consultants, and grant other relief as the Board deems appropriate and just.

## **STATUTORY AUTHORITIES**

Section 3.315 of the Act defines “person” as “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.” 415 ILCS 5/3.315 (2024).

Section 3.165 of the Act defines “contaminant” as “any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.” 415 ICLS 5/3.165 (2024).

Section 3.185 of the Act defines “disposal” as “the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste or hazardous waste into or on any land or water or into any well so that such waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.” 415 ILCS 5/3.185 (2024).

Section 3.305 of the Act defines “open dumping” as “the consolidation of refuse from one or more sources at a disposal site that does not fulfill the requirements of a sanitary landfill.” 415 ILCS 5/3.305 (2024).

Section 3.385 of the Act defines “refuse” as “waste.” 415 ILCS 5/3.385 (2024).

Section 3.445 of the Act defines “sanitary landfill” in pertinent part as “a facility permitted by the Agency for the disposal of waste on land meeting the requirements of the Resource Conservation and Recovery Act, P.L. 94-580 . . . .” 415 ILCS 5/3.445 (2024).

Section 3.460 of the Act defines “site” as “any location, place, tract of land, and facilities, including but not limited to buildings, and improvements used for purposes subject to regulation or control by this Act or regulations thereunder.” 415 ILCS 5/3.460 (2024).

Section 3.535 of the Act defines “waste” in pertinent part as “any garbage . . . or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities.” 415 ILCS 5/3.535 (2024).

Section 3.545 of the Act defines “water pollution” as “such alteration of the physical, thermal, chemical, biological or radioactive properties of any waters of the State, or such discharge of any contaminant into any waters of the State, as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.” 415 ILCS 5/3.545 (2024).

Section 3.550 of the Act defines “waters” as “all accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof, which are wholly or partially within, flow throughout, or border upon this State.” 415 ILCS 5/3.550 (2024).

Section 12(a) of the Act provides that no person shall “[c]ause or threaten or allow the discharge of any contaminants into the environment in any State so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources, or so as to violate regulations or standards adopted by the Pollution Control Board under this Act.” 415 ILCS 5/12(a) (2024).

Section 12(d) of the Act provides that no person shall “[d]eposit any contaminants upon the land in such place and manner so as to create a water pollution hazard.” 415 ILCS 5/12(d) (2024).

Section 21(a) of the Act provides that no person shall “[c]ause or allow the open dumping of any waste.” 415 ILCS 5.21(a) (2024).

Section 21(d)(1) of the Act provides in pertinent part that no person shall “[c]onduct any waste-storage, waste-treatment, or waste-disposal operation without a permit granted by the Agency or in violation of any conditions imposed by such permit . . . .” 415 ILCS 5/21(d)(1) (2024).

Section 21(e) of the Act provides that no person shall “[d]ispose, 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.” 415 ILCS 5/21(e) (2024).

Section 21(p) of the Act provides in pertinent part that no person shall “[i]n 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:

(1) litter;

\* \* \*

(6) standing or flowing liquid discharge from the dump site . . . . 415 ILCS 5/21(p)(1), (p)(6) (2024).

Section 3(a) of the Litter Control Act defines “litter” as

any discarded, used or unconsumed substance or waste. “Litter” may include, but is not limited to, any garbage, trash, refuse, cigarettes, debris, rubbish, grass clippings or other lawn or garden waste, newspaper, magazines, glass, metal, plastic or paper containers or other packaging construction material, abandoned vehicle (as defined in the Illinois Vehicle Code), motor vehicle parts, furniture, oil, carcass of a dead animal, any nauseous or offensive matter of any kind, any object likely to injure any person or create a traffic hazard, potentially infectious medical waste as defined in Section 3.360 of the Environmental Protection Act, or anything else of an unsightly or unsanitary nature, which has been discarded, abandoned or otherwise disposed of improperly. 415 ILCS 105/3(a) (2024).

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

The People's motion requests that the Board deem the material allegations in their complaint to be admitted against Respondents. Mot. at 3 (¶9). Under the Board's procedural rules, "the respondent must file an answer within 60 days after receipt of the complaint if respondent wants to deny any allegations in the complaint. All material allegations of the complaint will be taken as admitted if no answer is filed or if not specifically denied by answer." 35 Ill. Adm. Code 103.204(d); Mot. at 3 (¶7).

Respondents each failed to answer the complaint within 60 days after service, which was Monday, April 7, 2025, and further failed to respond to the People's motion to deem facts admitted. Respondents have therefore waived any objection to the Board granting the People's motion. See 35 Ill. Adm. Code 101.500(d). Accordingly, the Board grants the People's unopposed motion and deems admitted the material allegations in the People's complaint.

### **FACTS DEEMED ADMITTED**

Givens is an individual and the president of Royal Creation, which is an Illinois corporation that operates an interstate commercial trucking business. Compl. at 2 (¶¶3-6). On October 19, 2020, a truck operated by Givens was involved in a collision at or near the intersection of Argo Fay Route and Thomson Road in Carroll County, approximately 200 feet from an unnamed tributary to Johnson Creek. *Id.* at 2 (¶7); Kazmerski Affidavit at ¶7. Because of the collision, at least one of the truck's two saddle fuel tanks ruptured, resulting in the release of up to 300 gallons of diesel fuel at the collision site. Compl. at 2 (¶8). The spill was close enough to the tributary that the diesel fuel could flow into Johnson Creek. *Id.* at 6 (¶¶28-29).

The Village of Thomson Fire Department and a towing and roadside recovery service responded to the incident and diked the area near the unnamed tributary. Compl. at 2 (¶9). On October 19, 2020, the Carroll County Emergency Management Agency reported the incident to the Illinois Emergency Management Agency (IEMA). *Id.* at 2 (¶10). After the day of the collision, the area received about two inches of rain. *Id.* at 2 (¶11).

On October 23, 2020, an Illinois EPA inspector visited the collision site. Compl. at 2 (¶12); Kazmerski Affidavit at ¶7. At the time of this inspection, in addition to observing the Johnson Creek tributary located approximately 200 feet from the collision site, the Illinois EPA inspector observed absorbent booms placed near the site of the spill, a puddle of unidentifiable liquid on the ground, and a noticeable sheen on the surface of the puddle on the ground. Compl. at 2-3 (¶13); Kazmerski Affidavit at ¶7. Additionally, at this time, Respondents had not performed any remediation of the collision site. Compl. at 3 (¶14); Kazmerski Affidavit at ¶7. Illinois EPA has never issued Respondents a permit for disposing waste at the collision site. Compl. at 9 (¶30). Illinois EPA has no record of Respondents taking any action to remediate the collision site, including soil testing, excavating, and removing contaminated soil. Kazmerski Affidavit at ¶8.

On October 26, 2020, Givens reported the collision and release of diesel fuel to IEMA. Compl. at 3 (¶15).

## **MOTION FOR SUMMARY JUDGMENT**

The People seek summary judgment against Respondents. The People further request that the Board impose a \$30,000 civil penalty against Respondents and require Respondents to complete certain compliance activities at the collision site. Mot. at 5-7.

A party has 14 days after receiving a motion for summary judgment to respond. 35 Ill. Adm. Code 101.516(a). If it does not respond, “the party waives 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). Respondents did not respond to the People’s motion or file a motion to extend the response deadline. The Board finds that by failing to respond to the People’s motion for summary judgment, Respondents have waived any objection to the Board granting the People’s motion for summary judgment.

The People argue that, if the Board grants its motion to deem facts admitted, “then the record shows that there is no issue of material fact remaining for review.” Mot. at 4, ¶12. The People further argue that they are entitled to summary judgment against Respondents on all seven counts of its complaint and thus a Board finding that Respondents violated Sections 12(a), 12(d), 21(a), 21(d)(1), 21(e), 21(p)(1), and 21(p)(6) of the Act (415 ILCS 5/12(a), 12(d), 21(a), 21(d)(1), 21(e), 21(p)(1), 21(p)(6) (2024)). Below, the Board provides relevant statutory authorities and the standard for considering a motion for summary judgment before deciding the motion.

### **Standard for Summary Judgment**

Summary judgment is appropriate when the pleadings, depositions, admissions, affidavits, and other items in the record show that there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law. 35 Ill. Adm. Code 101.516(b); Adames v. Sheahan, 233 Ill. 2d 276, 295, 909 N.E.2d 742, 753 (2009); Dowd & Dowd, Ltd. v. Gleason, 181 Ill. 2d 460, 483, 693 N.E.2d 358, 370 (1998). When determining whether a genuine issue of material fact exists, the record “must be construed strictly against the movant and liberally in favor of the opponent.” Adames, 233 Ill. 2d at 295-96, 909 N.E.2d at 754; Purtill v. Hess, 111 Ill. 2d 229, 240, 489 N.E.2d 867, 871 (1986).

“It is well established that in deciding a motion for summary judgment the court may draw inferences from undisputed fact.” Makowski v. City of Naperville, 249 Ill. App. 3d 110, 119, 617 N.E. 2d 1251 (2nd Dist. 1993); *see also* Loyola Academy v. S & S Roof Maintenance, Inc., 146 Ill. 2d 263, 272, 586 N.E.2d 1211 (2d Dist. 1992). “However, where reasonable persons could draw divergent inferences from undisputed facts, the trier of fact should decide the issues and the summary judgment motion should be denied.” Makowski, 249 Ill. App. 3d at 119; *see also* Pyne v. Witmer, 129 Ill. 2d 351, 358, 543 N.E.2d 1304 (1989).

Summary judgment “is a drastic means of disposing of litigation, and therefore, should be granted only when the right of the moving party is clear and free from doubt.” Adames, 233 Ill. 2d at 296, 909 N.E.2d at 754; Purtill, 111 Ill. 2d at 240, 489 N.E.2d at 871.

## **Analysis of Motion for Summary Judgment**

### **Count I**

In Count I, the People allege that Respondents violated Section 12(a) of the Act (415 ILCS 5/12(a) (2024)) by causing, threatening, or allowing the discharge of contaminants into the environment so as to cause or tend to cause water pollution. Compl. at 5 (¶28).

The facts deemed admitted establish that Respondents were in control of the truck involved in the collision. Givens and Royal Creation, the two Respondents, are each a “person” as defined in the Act (415 ILCS 5/3.315 (2024)). The collision resulted in the release – from one or both of the truck’s fuel tanks – of up to 300 gallons of diesel fuel, a “contaminant” (415 ILCS 5/3.165 (2024)), at the collision site near a tributary to Johnson Creek. Johnson Creek and its unnamed tributary are each “waters” of the State of Illinois (415 ILCS 5/3.550 (2024)). The spill was close enough to the tributary that the diesel fuel could flow into Johnson Creek. The collision site received about two inches of rain after the day of the collision.

Four days later, the Illinois EPA inspector observed the following: absorbent booms placed near the site of the spill; a puddle of unidentifiable liquid on the ground; a noticeable sheen on the surface of the puddle on the ground; and the Johnson Creek tributary about 200 feet from the collision site. Kazmerski Affidavit at ¶7. Significantly, Respondents had not performed any remediation of the site as of that inspection. *Id.* at ¶8.

“Water pollution” means “the discharge of any contaminant into any waters of the State, as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.” 415 ILCS 5/3.545 (2024). The Board finds that Respondents caused, threatened, or allowed the discharge of a contaminant into the environment so as to cause or tend to cause water pollution.

Accordingly, on Count I, the Board grants the People’s motion for summary judgment and finds that Respondents violated Section 12(a) of the Act.

### **Count II**

In Count II, the People allege that Respondents violated Section 12(d) of the Act (415 ILCS 5/12(d) (2024)) by depositing contaminants on the ground at the collision site so as to create a water pollution hazard.

The facts deemed admitted establish that Respondents, as operators of the vehicle involved in the collision, caused diesel fuel to be deposited on the ground at the collision site near the Johnson Creek tributary. Considering the high volume of diesel fuel spilled, the toxic constituents within diesel fuel, and the short distance from the spill site to the tributary, the Board finds that the spill posed a substantial risk of polluting waters of the State. Respondents

therefore deposited contaminants on the ground in such a place and manner so as to create a water pollution hazard.

Accordingly, on Count II, the Board grants the People's motion for summary judgment and finds that Respondents violated Section 12(d) of the Act.

### **Count III**

In Count III, the People allege Respondents violated Section 21(a) of the Act (415 ILCS 5/21(a) (2024)) by causing or allowing the open dumping of waste at the collision site.

The facts deemed admitted establish that the spilled diesel fuel from the collision was discarded material, which is considered "waste" (415 ILCS 5/3/535 (2024)) and thus "refuse" (415 ILCS 5/3.385 (2024)). The spilled fuel was present in a puddle on the ground at the collision site (Kazmerski Affidavit at ¶7), constituting the consolidation of refuse from one or more sources within the meaning of "open dumping" (415 ILCS 5/3.305 (2024)). Respondents caused or allowed open dumping, as they were in control of the truck involved in the collision. The spillage onto the ground constitutes "disposal" (415 ILCS 5/3.185 (2024)) of this refuse at a "site" (415 ILCS 5/3.460 (2024)) so that the refuse entered the environment and may otherwise be discharged to the Johnson Creek tributary. Because Illinois EPA never issued Respondents a permit to dispose of waste at the collision site, the disposal site did not meet the statutory requirements of a "sanitary landfill" (415 ILCS 5/3.445 (2024)). Therefore, Respondents caused or allowed the open dumping of waste.

Accordingly, on Count III, the Board grants the People's motion for summary judgment and finds that Respondents violated Section 21(a) of the Act.

### **Count IV**

In Count IV, the People allege Respondents violated Section 21(d)(1) of the Act (415 ILCS 5/21(d)(1) (2024)) by conducting a waste disposal operation without a permit granted by Illinois EPA.

As noted above in Count III, Illinois EPA never issued Respondents a permit for disposing of diesel fuel waste at the collision site. However, the Board is not persuaded that Respondents' activities at the site constituted a waste disposal operation as contemplated by the Act. The Board's solid waste disposal regulations define an "operator" as "the person responsible for the operation and maintenance of a solid waste disposal facility." 35 Ill. Adm. Code 810.103. An entity is regarded as an operator if it is involved in the day-to-day operations of the site. City of Morris v. Cmty. Landfill Co., 2011 IL App (3d) 090847, ¶26. This is the test to determine if an entity is "conducting waste operations." *Id.* at ¶28.

The record establishes a single incident that occurred because of a vehicle collision, rather than Respondents directing or supervising disposal activities or otherwise operating and maintaining a waste disposal facility at that site. *See City of Morris*, 2011 IL App (3d) 090847 at ¶¶26-27. To "conduct" includes the following definitions from Merriam-Webster: "to direct or

take part in the operation or management of”; “to direct the performance of”; and “to lead from a position of command.” An “operation” includes the following definitions from Merriam-Webster: “performance of practical work or of something involving the practical application of principles or processes”; “an exertion of power or influence”; “the quality or state of being functional or operative”; and “a method or manner of functioning.” The Board finds these definitions distinct from the current record’s facts of Respondents’ waste disposal at the collision site. Construing the record strictly against the People and liberally in favor of the Respondents, the Board finds a genuine issue of material fact as to whether Respondents conducted a waste disposal operation within the meaning of Section 21(d)(1) of the Act.

Accordingly, on Count IV, the Board denies the People’s motion for summary judgment.

### **Count V**

In Count V, the People allege Respondents violated Section 21(e) of the Act (415 ILCS 5/21(e) (2024)) by disposing of waste at an unpermitted site.

The facts deemed admitted establish that Respondents disposed of waste through spilling diesel fuel at the collision site. Again, as noted above, Illinois EPA never issued Respondents a permit for waste disposal at this site. As such, the collision site fails to meet the requirements of the Act for the disposal of waste.

Accordingly, on Count V, the Board grants the People’s motion for summary judgment and finds that Respondents violated Section 21(e) of the Act.

### **Count VI**

The People allege Respondents violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2024)) by causing or allowing open dumping of waste in a manner resulting in litter.

As found under Count III, Respondents caused or allowed the open dumping of waste. The facts deemed admitted further establish that the spilled diesel fuel was litter because it was a discarded substance or waste, and Respondents discarded, abandoned, or otherwise disposed of it improperly. Therefore, Respondents caused or allowed open dumping of waste in a manner resulting in litter at the collision site.

Accordingly, on Count VI, the Board grants the People’s motion for summary judgment and finds that Respondents violated Section 21(p)(1) of the Act.

### **Count VII**

The People allege Respondents violated Section 21(p)(6) of the Act (415 ILCS 5/21(p)(6) (2024)) by causing or allowing open dumping of waste in a manner resulting in standing or flowing liquid discharge from the dump site.

As found under Count III, Respondents caused or allowed the open dumping of waste. Accordingly, the collision site constituted “the dump site” within the meaning of Section 21(p)(6). The facts deemed admitted further establish that the spilled diesel fuel resulted in standing or flowing liquid from the collision site. The collision resulted in spilling up to 300 gallons of diesel fuel. The area received two inches of rainfall after the collision and before Illinois EPA’s inspection of the collision site. Illinois EPA’s inspection noted absorbent booms placed near the site of the spill and a puddle of unidentifiable liquid on the ground with a sheen on its surface. Kazmerski Affidavit at ¶7. These facts demonstrate standing or flowing liquid discharge from the collision site. Therefore, Respondents caused or allowed the open dumping of waste in a manner resulting in standing or flowing liquid discharge from the dump site.

Accordingly, on Count VII, the Board grants the People’s motion for summary judgment and finds that Respondents violated Section 21(p)(6) of the Act.

### **Conclusion on Motion for Summary Judgment**

Construing the record strictly against the People and liberally in favor of the Respondents, the Board finds no genuine issue of material fact on Count I, II, III, V, VI, or VII of the People’s complaint. The Board further finds that the People are entitled to judgment as a matter of law on those six counts. The Board therefore grants the People’s motion for summary judgment on Counts I, II, III, V, VI, and VII and finds that Respondents violated Sections 12(a), 12(d), 21(a), 21(e), 21(p)(1), and 21(p)(6) of the Act.

However, construing the record strictly against the People and liberally in favor of the Respondents, the Board finds a genuine issue of material fact on Count IV, precluding a finding on summary judgment that Respondents violated Section 21(d)(1) of the Act as alleged. The Board therefore denies the People’s motion for summary judgment on Count IV and directs the parties to proceed to hearing on this count.

### **PROPORTIONATE SHARE LIABILITY AND THE SITE REMEDIATION PROGRAM**

Section 58.9(a)(1) of the Act provides in pertinent part that

in no event may the Agency, the State of Illinois, or any person bring an action pursuant to this Act or the Groundwater Protection Act to require any person to conduct remedial action or to seek recovery of costs for remedial activity conducted by the State of Illinois or any person beyond the remediation of releases of regulated substances that may be attributed to being proximately caused by such person's act or omission or beyond such person's proportionate degree of responsibility for costs of the remedial action of releases of regulated substances that were proximately caused or contributed to by 2 or more persons. 415 ILCS 5/58.9(a)(1) (2024).

Section 58.9(b) of the Act provides that

[i]n the event that the State of Illinois seeks to require a person who may be liable

pursuant to this Act to conduct remedial activities for a release or threatened release of a regulated substance, the Agency shall provide notice to such person. Such notice shall include the necessity to conduct remedial action pursuant to this Title and an opportunity for the person to perform the remedial action. 415 ILCS 5/58.9(b) (2024).

Part 741 of the Board's rules (35 Ill. Adm. Code 741) addresses proportionate share liability, including its applicability, a complainant's burden to prove each respondent's proportionate share, and the requirements for the Board's final order. *See* 35 Ill. Adm. Code 741.105, 741.205(a), 741.210(a), (b).

Here, the People ask that the Board order Respondents to perform remediation at the collision site, including the following: sample the collision site area for contaminants, including benzene, toluene, ethylbenzene, and xylenes (BTEX), resulting from the diesel spill; if necessary, remediate any above-threshold BTEX contamination under the Site Remediation Program (SRP) at 35 Ill. Adm. Code 740 by removing all open-dumped diesel fuel and properly excavating and disposing of contaminated soils; submit all sampling and remediation reports and disposal records to Illinois EPA; and obtain a No Further Remediation letter through the SRP. Mot. at 5-7 (item D).

The People allege, and the Board has found, that Respondents caused or allowed the release of diesel fuel, which constitutes a "regulated substance" under Part 741 (35 Ill. Adm. Code 741.110). The record provides that Givens is the president of Royal Creation, which owns an interstate commercial trucking business, and that Givens operated the truck involved in the collision. However, the record does not indicate what amount of remediation may be attributed to being proximately caused by each Respondent, and therefore it is unclear what amount of remediation the Board may order each Respondent to perform, if the Board deems remediation an appropriate remedy. *See* 415 ILCS 5/58.9(a)(1) (2024); 35 Ill. Adm. Code 741.205(a), 741.210(a), (b). The record also does not indicate that Illinois EPA provided notice under Section 58.9(b) to Respondents.

Furthermore, the People's request for remediation includes multiple provisions where Respondents must submit proposals and amendments until Illinois EPA approves them. However, the Board's SRP rules allow an applicant to appeal Illinois EPA's final decisions to the Board at multiple points throughout the process. *See* 35 Ill. Adm. Code 740.505(h); *see also* 415 ILCS 5/5(d) (2024) (Board may hear "petitions for review of final determinations which are made pursuant to this Act or Board rule and which involve a subject which the Board is authorized to regulate.").

Accordingly, to ensure a complete record and compliance with statutory and regulatory requirements, the Board directs that the hearing and post-hearing briefing also address proportionate share liability as it may apply to the People's requested remediation. The Board further directs that the post-hearing briefing address whether the apparent elimination of Respondents' appeal rights in the People's requested remediation process is appropriate.

## CONCLUSION

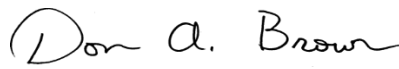
The Board grants the People's unopposed motion to deem facts admitted. Based on the facts deemed admitted, the Board finds that Respondents violated Sections 12(a), 12(d), 21(a), 21(e), 21(p)(1), and 21(p)(6) of the Act, as alleged in the People's complaint. For these provisions, the Board finds no genuine issue of material fact and that the People are entitled to judgment as a matter of law. Accordingly, the Board grants the People's motion for summary judgment on Counts I, II, III, V, VI, and VII. However, for the alleged violation of Section 21(d)(1) of the Act in Count IV, the Board finds there is a genuine issue of material fact and therefore denies the People's motion for summary judgment on Count IV. The Board directs the parties to proceed to hearing on this count and reserves ruling on the remedy for the violations.

## ORDER

1. The Board grants the People's unopposed motion to deem facts admitted.
2. The Board grants the People's unopposed motion for summary judgment against Respondents on Counts I, II, III, V, VI, and VII and therefore finds that they violated Sections 12(a), 12(d), 21(a), 21(e), 21(p)(1), and 21(p)(6) of the Act (415 ILCS 5/12(a), 12(d), 21(a), 21(e), 21(p)(1), 21(p)(6) (2024)).
3. The Board denies the People's unopposed motion for summary judgment against Respondents on Count IV because there is a genuine issue of material fact regarding the alleged violation of Section 21(d)(1) of the Act (415 ILCS 5/21(d)(1) (2024)). The Board directs the parties to proceed to hearing on this count.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above interim opinion and order on July 9, 2026, by a vote of 4-0.



Don A. Brown, Clerk  
Illinois Pollution Control Board