



**SERVICE LIST**

For the Respondent

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Illinois Pollution for Control Board

Brad Halloran  
Hearing Officer  
Illinois Pollution Control Board  
James R. Thompson Center  
100 West Randolph, Suite 11-500  
Chicago, Illinois 60601  
Email: Brad.Halloran@illinois.gov

**CERTIFICATE OF SERVICE**

I, ARLENE R. HAAS, an Assistant Attorney General, certify that on the 10th day of December 2020, I caused to be served by electronic mail the foregoing Notice of Filing, Motion to Request Relief from Hearing Requirement, and Stipulation and Proposal for Settlement to the persons listed on the attached Service List.

*/s/ Arlene R. Haas* \_\_\_\_\_  
ARLENE R. HAAS  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
69 W. Washington Street, Suite 1800  
Chicago, IL 60602  
(312) 814-3153



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) (2018).

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) (2018).

Respectfully submitted,

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

BY: /s/ Arlene R. Haas  
Arlene R. Haas  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
69 W. Washington Street, Suite 1800  
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DATE: December 10, 2020



**I. STATEMENT OF FACTS**

**A. Parties**

1. On March 19, 2020, 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(2018), against the Respondent (the “Complaint”).

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 (2018).

3. At all times relevant to the Complaint, Respondent was an Illinois limited liability company registered with the Illinois Secretary of State.

4. Respondent owned and operated an automobile and metals recycling operation at the property Respondent leased at 800 Brickville Road, Sycamore, DeKalb County, Illinois (“Facility”).

5. The Facility is an automobile junkyard classified as Standard Industrial Classification 5015, and automobiles and automobile components brought to the Facility contained motor oil, gasoline, transmission fluid, brake fluid, power steering fluid, anti-freeze coolant, and/or windshield washer fluid (collectively “Automobile Fluids”).

6. Stormwater at the Facility comes into contact with Automobile Fluids and runs off into the South Branch Kishwaukee River adjacent to the north side of the Facility.

7. During a February 8, 2019 inspection, Illinois EPA observed that Respondent was operating without coverage under the State of Illinois’ General National Pollutant Discharge Elimination System Stormwater Permit for Industrial Activities (“General NPDES Permit”).

Respondent also did not submit a Stormwater Pollution Prevention Plan (“SWPPP”) to Illinois EPA as required of General NPDES Permit permittees.

8. As of June 16, 2020, or on dates better known to Respondent, Respondent terminated its business.

**B. Allegations of Non-Compliance**

Complainant contends that the Respondent violated the following provisions of the Act and Board regulations:

Count I: Operation of Industrial Facility Without NPDES Permit in violation of Section 12(f) of the Illinois Environmental Protection Act, 415 ILCS 5/12(f) (2018), Sections 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a).

Count II: Water Pollution Threat in violation of Section 12(a) of the Illinois Environmental Protection Act, 415 ILCS 5/12(a)(2018).

**C. Admission of Violations**

The Respondent admits to the violations alleged in the Complaint filed in this matter and referenced herein.

**D. Compliance Activities to Date**

1. On July 19, 2019, the Respondent submitted to Illinois EPA its Notice of Intent to renew its coverage under the General NPDES Permit. On August 8, 2019, Illinois EPA issued Respondent coverage under the General NPDES Permit to Respondent.

2. On September 5, 2019, Illinois EPA received Respondent’s SWPPP.

3. On September 5, 2019, Respondent submitted to Illinois EPA the Annual Facility Inspection Report for the May 2018 – May 2019 reporting period.

**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 (2018).

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

Section 33(c) of the Act, 415 ILCS 5/33(c) (2018), 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. Complainant alleges that the Respondent's failure to timely submit its application to renew coverage under the General NPDES Permit resulted in Respondent operating an industrial facility without cover under the General NPDES Permit. As a result, Complainant alleges that Illinois EPA's information gathering responsibilities were hindered by the Respondent's violations and that human health and the environment were threatened.

2. There is social and economic benefit to the Facility.

3. Operation of the Facility was and is suitable for the area in which it is located.

4. The Respondent's NPDES Permit requirements to timely submit the (a) NPDES Permit application and (b) a SWPPP, were technically practicable and economically reasonable.

5. Respondent has subsequently complied with the Act and the Board regulations.

#### **IV. CONSIDERATION OF SECTION 42(h) FACTORS**

Section 42(h) of the Act, 415 ILCS 5/42(h) (2018), 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. Complainant alleges that the Illinois EPA inspector observed on February 8, 2019, that Respondent was operating without coverage under the General NPDES Permit. Illinois EPA issued Respondent coverage under the General NPDES Permit on August 8, 2019 and received the SWPPP from Respondent on September 5, 2019.

2. The Respondent was diligent in attempting to come back into compliance with the Act and the Board regulations, once Illinois EPA notified the Respondent of its noncompliance.

3. The Respondent gained de minimis economic benefit as a result of its failure to renew its coverage under the General NPDES Permit and submit its SWPPP.

4. Complainant has determined, based upon the specific facts of this matter, that a penalty of thirty-five hundred dollars (\$3,500.00) will serve to deter further violations and aid in future voluntary compliance with the Act and the Board regulations.

5. To Complainant's knowledge, the 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 at issue in this matter.

**V. TERMS OF SETTLEMENT**

**A. Penalty Payment**

The Respondent shall pay a civil penalty in the sum of thirty-five hundred dollars (\$3500.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

**B. Interest and Default**

1. 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.

2. 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.

**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:

Arlene R. Haas  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
69 W. Washington Street, Suite 1800  
Chicago, Illinois 60602

**D. Future Compliance**

1. 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 regulations.

2. The Respondent shall cease and desist from future violations of the Act and Board regulations that were the subject matter of the Complaint.

**E. Release from Liability**

In consideration of the Respondent's payment of the thirty-five hundred dollars (\$3,500.00) penalty, its commitment to cease and desist as contained in Section V.D.2. 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 and Board regulations that were the subject matter of the Complaint herein. The release set forth above does not extend to any matters other than those expressly specified in Complainant's Complaint filed on March 19, 2020. 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, or entity other than the Respondent.

**F. 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.

**G. 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.

**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. This Stipulation may be executed by the parties in one

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or more counterparts, all of which taken together shall constitute one and the same instrument.

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      ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

KWAME RAOUL  
Attorney General  
State of Illinois

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

JOHN J. KIM, Director  
Illinois Environmental Protection Agency

BY: Matthew J. Dunn  
MATTHEW J. DUNN, Chief

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

DATE: 12/3/20

DATE: 11/18/2020

J & M VEHICLE MANAGEMENT  
ENTERPRISES, LLC d/b/a  
B & O USED AUTO PARTS

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

ITS: \_\_\_\_\_

DATE: \_\_\_\_\_

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Illinois Environmental Protection Agency

BY: \_\_\_\_\_  
MATTHEW J. DUNN, Chief

BY: \_\_\_\_\_  
CHARLES W. GUNNARSON  
Chief Legal Counsel

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

J & M VEHICLE MANAGEMENT  
ENTERPRISES, LLC d/b/a  
B & O USED AUTO PARTS

BY: Neftali A. Rodriguez

ITS: Manager

DATE: 11/16/2020