

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 No. 22-
)	(Enforcement – Water)
UNITED READY MIX, INC.,)	
a Delaware corporation,)	
)	
Respondent.)	

NOTICE OF FILING

TO: See attached service list.

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the following Complaint, a copy of which is attached and hereby served upon you. **You may be required to answer the charges of the Complaint at a hearing before the Board, at a date set by the Board.**

Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the clerk's office, or an attorney.

NOTIFICATION - YOU ARE HEREBY NOTIFIED that financing may be available through the Illinois Environmental Facilities Financing Act [20 ILCS 3515/1, et seq.] to correct the alleged violations.

Respectfully submitted,

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

By: s/Christina Nannini
Christina Nannini
Office of the Illinois Attorney General
500 S. Second Street
Springfield, IL 62701
(217)782-9031
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Date: October 13, 2021

Service List

For the Respondent

United Ready Mix
c/o Registered Agent
Johnson, Bunce & Noble, P.C.
7800 N. Sommer St., Suite 425
Peoria, IL 61615

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 (2018), and charged, *inter alia*, with the duty of promulgating standards and regulations under the Act.

4. This Complaint is brought pursuant to Section 31 of the Act, 415 ILCS 5/31 (2018), after providing Respondent, United Ready Mix, Inc., with notice and the opportunity for a meeting with the Illinois EPA.

5. Respondent, United Ready Mix, Inc. (“United” or “Respondent”), is a Delaware corporation, authorized and in good standing to conduct business in the State of Illinois. The registered agent for United is Johnson Bunce & Noble PC, 7800 N Sommer Street, Suite 425, Peoria, Illinois 61615.

6. United is a manufacturer of ready-mix concrete at two locations, one located at 2101 S. Second Street, Pekin, Illinois (“Pekin site”) and one located at 1 Leland Street, Peoria, Illinois (“Peoria site”).

7. Stormwater runoff from United’s Pekin site flows to Lost Creek.

8. On June 15, 1998, United obtained coverage for the Pekin site under the General Storm Water NPDES Permit for Industrial Activity (“General NPDES Permit”).

9. On October 6, 2018, Illinois EPA sent a letter to United regarding the Pekin site and advising of the need to renew its coverage under the General NPDES Permit, submit outstanding Annual Inspection Reports for the years 2014 through the present, and submit its current Stormwater Pollution Prevention Plan (“SWPPP”).

10. On November 30, 2018, Illinois EPA inspected the Pekin site and determined that the Pekin site still required coverage under the General NPDES Permit.

11. On December 7, 2018, Illinois EPA sent another notice to United concerning its failure to renew coverage for the Pekin site under the General NPDES Permit.
12. On March 19, 2020, United submitted to Illinois EPA an application for renewal of coverage for the Pekin site under the General NPDES Permit.
13. On May 20, 2020, Illinois EPA sent United a notice that it had approved coverage for the Pekin site under the General NPDES Permit, but advised that United still needed to submit a SWPPP and outstanding Annual Inspection Reports for the Pekin site.
14. As of the date of the filing of this Complaint, United has not submitted all outstanding Annual Inspection Reports for the Pekin site.
15. Section 12(f) of the Act, 415 ILCS 5/12(f) (2018), provides as follows:

No person shall:

 - (f) 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 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.
16. Section 3.315 of the Act, 415 ILCS 5/3.315 (2018), 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.
17. United is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2018).

18. Section 3.165 of the Act, 415 ILCS 5/3.165 (2018), provides the following definition:

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

19. Stormwater runoff from both the Pekin and Peoria sites which comes into contact with materials and equipment used to make ready-mix concrete is a “contaminant” as the term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2018).

20. Section 3.550 of the Act, 415 ILCS 5/3.550 (2018), 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. Lost Creek is “waters” as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2018).

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

(a) 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.

23. The United States Environmental Protection Agency (“USEPA”) has authorized the State of Illinois to issue NPDES permits through the Illinois EPA in compliance with federal regulations, including stormwater discharges regulated by 40 CFR § 122.26, which requires a person to obtain an NPDES permit and to implement a stormwater pollution prevention plan for stormwater discharges associated with industrial activity.

24. 40 CFR § 122.26(a) provides, in pertinent part, as follows:

- a) Permit Requirement.
 - 1) Prior to October 1, 1994, discharges composed entirely of stormwater shall not be required to obtain an NPDES permit except:
 - ii) A discharge associated with industrial activity

25. 40 CFR § 122.26(b) provides, in pertinent part, as follows:

- b) Definitions
 - 14) Stormwater discharge associated with industrial activity means the discharge from any conveyance that is used for collecting and conveying stormwater and that is directly related to manufacturing, processing or raw materials storage areas at an industrial plant.
 - (ii) Facilities classified within Standard Industrial Classification 24, Industry Group 241 that are rock crushing, gravel washing, log sorting, or log storage facilities operated in connection with silvicultural activities defined in 40 CFR 122.27(b)(2)-(3) and Industry Groups 242 through 249; 26 (except 265 and 267), 28 (except 283), 29, 311, 32 (except 323), 33, 3441, 373; (not included are all other types of silviculture facilities);

26. As ready-mix concrete producers, United's Pekin and Peoria sites are classified as Industry Group 32, SIC 3273, as that term is defined in 40 CFR § 122.26(b)(14)(ii), and therefore have stormwater discharges associated with industrial activity requiring a NPDES Permit.

27. On dates better known to Respondent and continuing through May 20, 2020, United discharged stormwater from the Pekin site into waters of the State without NPDES permit coverage.

28. By operating the concrete manufacturing facility at the Pekin site without NPDES permit coverage for such operation at the Pekin site, Respondent violated Section 12(f) of the

Act, 415 ILCS 5/12(f) (2018), and Section 309.102(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, UNITED READY MIX, INC.:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act and Board regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and Board regulations;
- D. Pursuant to Section 42(b)(1) of the Act, 415 ILCS 5/42(b)(1) (2018), assessing against the Respondent a civil penalty of Ten Thousand Dollars (\$10,000) for each day of each of the violations of the Act and Board Regulations; and
- E. Granting such other relief as the Board may deem appropriate.

COUNT II
FAILURE TO TIMELY REAPPLY FOR NPDES PERMIT – PEORIA SITE

1-17. Complainant realleges and incorporates by reference herein paragraphs 1 through 6, 15 through 20, and 22 through 26 of Count I as paragraphs 1 through 17 of this Count II.

18. Stormwater runoff from United's Peoria site flows to the Illinois River.

19. The Illinois River is "waters" as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2018).

20. On June 15, 1998, United obtained coverage for the Peoria site under the General Storm Water NPDES Permit for Industrial Activity ("General NPDES Permit").

21. On October 6, 2018, Illinois EPA sent a letter to United regarding the Peoria site and advising of the need to renew its coverage under the General NPDES Permit, submit outstanding Annual Inspection Reports for the years 2014 through the present, and submit its current Stormwater Pollution Prevention Plan (“SWPPP”).

22. On April 2, 2019, Illinois EPA inspected the Peoria site and advised one of United’s employees of the need to renew the General NPDES Permit, submit the outstanding Annual Inspection Reports, and submit the current SWPPP.

23. On April 4, 2019, Illinois EPA sent a second letter to United’s Peoria site, restating the need for the site to renew the General NPDES Permit, submit the outstanding Annual Inspection Reports, and submit the current SWPPP.

24. On March 19, 2020, United submitted to Illinois EPA an application for renewal of coverage for the Peoria site under the General NPDES Permit.

25. On May 20, 2020, Illinois EPA sent United a notice that it had approved coverage for the Peoria site under the General NPDES Permit, but advised that United still needed to submit a SWPPP and outstanding Annual Inspection Reports for the Peoria site.

26. As of the date of the filing of this Complaint, United has not submitted all outstanding Annual Inspection Reports for the Peoria site.

27. On dates better known to Respondent and continuing through May 20, 2020, United discharged stormwater from the Peoria site into waters of the State without NPDES permit coverage.

28. By operating the concrete manufacturing facility at the Peoria site without NPDES permit coverage for such operation at the Peoria site, Respondent violated Section 12(f)

of the Act, 415 ILCS 5/12(f) (2018), and Section 309.102(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a).

PRAYER FOR RELIEF

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- B. Finding that Respondent has violated the Act and Board regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and Board regulations;
- D. Pursuant to Section 42(b)(1) of the Act, 415 ILCS 5/42(b)(1) (2018), assessing against the Respondent a civil penalty of Ten Thousand Dollars (\$10,000) for each day of each of the violations of the Act and Board Regulations; and
- E. Granting such other relief as the Board may deem appropriate.

COUNT III
WATER POLLUTION – PEKIN SITE

1-13. Complainant realleges and incorporates by reference herein paragraphs 1 through 7 and 16 through 21 of Count I as paragraphs 1 through 13 of this Count III.

14. Section 12(a) of the Act, 415 ILCS 5/12(a) (2018), provides as follows:

No person shall:

- (a) Cause 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.

15. Section 3.545 of the Act, 415 ILCS 5/3.545 (2018), provides the following definition:

“Water pollution” is 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.

16. The threatened or actual discharge of stormwater from industrial activities at the Pekin site into Lost Creek is “water pollution” as that term is defined in Section 3.545 of the Act, 415 ILCS 5/3.545 (2018).

17. Respondent caused, threatened, or allowed the discharge of stormwater into Lost Creek from its Pekin site without a valid NPDES Permit.

18. By causing, threatening, or allowing the discharge of stormwater from the Pekin site, Respondent caused, threatened, or allowed the discharge of contaminants so as to cause or tend to cause water pollution, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2018).

19. By causing, threatening, or allowing the discharge of stormwater from the Pekin site in violation of Section 309.102(a) of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a), Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2018).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, UNITED READY MIX, INC.:

A. Authorizing a hearing in this matter at which time the Respondent will be

required to answer the allegations herein;

B. Finding that Respondent has violated the Act and Board regulations as alleged herein;

C. Ordering Respondent to cease and desist from any further violations of the Act and Board regulations;

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2018), assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000) for the initial violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2018), and a civil penalty of Ten Thousand Dollars (\$10,000) for each day the violations continued, and, pursuant to Section 42(b)(1) of the Act, 415 ILCS 5/42(b)(1) (2018), assessing against the Respondent a civil penalty of Ten Thousand Dollars (\$10,000) for each day of each violation of Section 309.102(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a); and

E. Granting such other relief as the Board may deem appropriate.

COUNT IV
WATER POLLUTION – PEORIA SITE

1-16. Complainant realleges and incorporates by reference herein paragraphs 1 through 6 and 16 through 21 of Count I, paragraphs 18 and 19 of Count II, and paragraphs 14 and 15 of Count III as paragraphs 1 through 16 of this Count IV.

17. The threatened or actual discharge of stormwater from industrial activities at the Peoria site into the Illinois River is “water pollution” as that term is defined in Section 3.545 of the Act, 415 ILCS 5/3.545 (2018).

18. Respondent caused, threatened, or allowed the discharge of stormwater into the Illinois River from its Peoria site without a valid NPDES Permit.

19. By causing, threatening, or allowing the discharge of stormwater from the Peoria

site, Respondent caused, threatened, or allowed the discharge of contaminants so as to cause or tend to cause water pollution, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2018).

20. By causing, threatening, or allowing the discharge of stormwater from the Peoria site in violation of Section 309.102(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a), Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2018).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, UNITED READY MIX, INC.:

A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;

B. Finding that Respondent has violated the Act and Board regulations as alleged herein;

C. Ordering Respondent to cease and desist from any further violations of the Act and Board regulations;

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2018), assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000) for the initial violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2018), and a civil penalty of Ten Thousand Dollars (\$10,000) for each day the violations continued, and pursuant to Section 42(b)(1) of the Act, 415 ILCS 5/42(b)(1) (2018), assessing against the Respondent a civil penalty of Ten Thousand Dollars (\$10,000) for each day of each violation of Section 309.102(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a); and

E. Granting such other relief as the Board may deem appropriate.

Respectfully submitted,

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/ Andrew Armstrong
ANDREW B. ARMSTRONG, Chief
Environmental Bureau/Springfield
Assistant Attorney General
ARDC #6282447

Of Counsel

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CERTIFICATE OF SERVICE

I, Christina Nannini, an Assistant Attorney General, certify that on the 13th day of October 13, 2021, I caused to be served by Certified Mail, return receipt requested, the foregoing Notice of Filing, Complaint and Certificate of Service, by depositing same in a United States Postal Service Box, Springfield, Illinois 62701 to the following:

United Ready Mix
c/o Registered Agent
Johnson, Bunce & Noble, P.C.
7800 N. Sommer St., Suite 425
Peoria, IL 61615

s/Christina Nannini
Assistant Attorney General
Environmental Bureau
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