

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS, )  
 by KWAME RAOUL, Attorney General )  
 of the State of Illinois, )  
 )  
 Complainant, )  
 )  
 v. )  
 )  
 IRONHUSTLER EXCAVATING, INC., an )  
 Illinois Corporation, RIVER CITY )  
 CONSTRUCTION, LLC, an Illinois limited )  
 Liability Company, and VENOVIH )  
 CONSTRUCTION CO., an Illinois corporation, )  
 )  
 Respondents.

PCB No. 2020-16  
(Enforcement)

**NOTICE OF FILING**

TO: See attached service list

PLEASE TAKE NOTICE that I did on December 2, 2021, file with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the following Notice of Filing, Objections to River City's Motion to Stay of Enforcement of Penalties and Certificate of Service, copies of which are hereby served upon you.

PEOPLE OF THE STATE OF ILLINOIS  
KWAME RAOUL, ATTORNEY GENERAL

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

BY: s/Raymond J. Callery  
Raymond J. Callery, #6193579  
Assistant Attorney General  
500 South Second Street  
Springfield, Illinois 62701  
217/782-9031  
[rcallery@atg.state.il.us](mailto:rcallery@atg.state.il.us)  
[ebs@atg.state.il.us](mailto:ebs@atg.state.il.us)

Dated: December 2, 2021

**Service List**

For the Respondents

Venovich Construction Company  
c/o Joseph L. Venovich, Jr., Registered Agent  
207 South Sampton Street  
P.O. Box 410  
Tremont, IL 61568

Kenneth Eathington  
Quinn Johnston Henderson & Pretorius  
227 N.E. Jefferson Street  
Peoria, IL 61602  
keathington@QuinnJohnston.com

Jay H. Scholl  
Davis & Campbell L.L.C.  
401 Main Street, Suite 1600  
Peoria, IL 61602-1241

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by KWAME RAOUL, Attorney General	)	
of the State of Illinois,	)	
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Complainant,	)	
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v.	)	PCB No. 2020-16
	)	(Enforcement)
IRONHUSTLER EXCAVATING, INC., an	)	
Illinois Corporation,	)	
	)	
Respondents.	)	

**OBJECTION TO RIVER CITY CONSTRUCTION, LLC's  
MOTION FOR STAY OF ENFORCEMENT OF PENALTY**

Complainant, People of the State of Illinois, by KWAME RAOUL, Attorney General of the State of Illinois, hereby files its Objection to RIVER CITY CONSTRUCTION, LLC's ("RIVER CITY") Motion for Stay of Enforcement of Penalty. Complainant states as follows:

1. On October 7, 2021, the Illinois Pollution Control Board ("Board") issued its Order and Opinion in Complainant's favor. On November 18, 2021, RIVER CITY filed both its Motion for Leave to File Petition for Review of Order of the Illinois Pollution Control Board and its Motion for Stay of Enforcement of Penalty ("Motion for Stay").

2. River City was served with the Board's order on October 12, 2021. As a result, the deadline for RIVER CITY to file a petition for review was November 16, 2021. See 415 ILCS 5/41(a) (2020) (providing petition for review must be filed within 35 days of service of Board's order).

3. The Illinois Pollution Control Board filed its response to RIVER CITY's Motion for Leave to File Petition for Review on November 23, 2021. The Appellate Court entered an order on November 29, 2021, denying RIVER CITY's Motion for Leave and noting the Board's response.

4. In direct reviews of administrative orders by the Appellate Court, the granting of a stay is governed by Illinois Supreme Court Rule 335(g):

The motion shall also show the reasons for the relief requested and the facts relied upon, and if the facts are subject to dispute the motion shall be supported by affidavit. With the motion shall be filed such parts of the record as are relevant to the relief sought. Reasonable notice of the motion shall be given to all parties to the proceeding in the Appellate Court. The court may condition relief under this rule upon the filing of a bond or other appropriate security. (emphasis added).

5. The Board in *Lloyd A. Fry Roofing Co. v. IEPA*, PCB 71-4 (Nov. 15, 1971), allowed Respondent's motion to stay enforcement of a civil penalty, but only with the posting of a bond:

Respondent's Motion to Stay the October 14, 1971 Order of the Board was filed pursuant to Supreme Court Rule 335 which governs procedure where judicial review of our proceedings is sought. While we do not accept the legal argument of respondent in support of its Motion, we do stay our Order with regard to the assessment of penalty on condition that a bond to secure payment of the penalty in the event of an adverse judicial decision is filed with the Environmental Protection Agency within 15 days after receipt of this Order.

*Lloyd A. Fry Roofing Co.*, slip op. at 2.

6. Should RIVER CITY's appeal be allowed to proceed, and the Board in this case determine to grant a stay on payment of the civil penalty, then the Board should condition the stay on RIVER CITY posting a bond securing payment of the \$35,000.00 penalty ordered by the Board, within fifteen (15) days. See *id.*

WHEREFORE, the Complainant, PEOPLE OF THE STATE OF ILLINOIS, for the above and foregoing reasons respectfully requests that the Board grant RIVER CITY's Motion for Stay only if conditioned upon RIVER CITY's posting of a bond securing payment of the Board-ordered penalty.

PEOPLE OF THE STATE OF ILLINOIS  
KWAME RAOUL, ATTORNEY GENERAL

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

BY: s/Raymond J. Callery  
Raymond J. Callery, #6193579  
Assistant Attorney General

Raymond J. Callery  
Assistant Attorney General  
500 South Second Street  
Springfield, Illinois 62701  
217/782-9031  
[Raymond.Callery@ilag.gov](mailto:Raymond.Callery@ilag.gov)

Dated: December 2, 2021

**CERTIFICATE OF SERVICE**

I, Raymond J. Callery, an Assistant Attorney General, certify that on the 2nd day of December, 2021, I caused to be served a copy of the foregoing Notice of Filing, Objection to River City's Motion to Stay and Certificate of Service as indicated to the following:

Venovich Construction Company  
c/o Joseph L. Venovich, Jr., Registered Agent  
207 South Sampton Street  
P.O. Box 410  
Tremont, IL 61568

Kenneth Eathington  
Quinn Johnston Henderson & Pretorius  
227 N.E. Jefferson Street  
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401 Main Street, Suite 1600  
Peoria, IL 61602-1241  
[jhscholl@dcamplaw.com](mailto:jhscholl@dcamplaw.com)

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